JOURNAL
of the
HOUSE OF REPRESENTATIVES
of the
General Assembly
of the
Commonwealth of Kentucky

Regular Session of 1988

Volume II

Held in the State Capitol in the Capital City of Frankfort, at
Frankfort, in the Year of Our Lord 1988, and
in the One Hundred and Ninety-Seventh
Year of the Commonwealth

Begun on the Fifth Day of January, 1988, and Adjourned
Sine Die on the Fifteenth Day of April, 1988.

FOREWORD

The Constitution requires each house of the General Assembly to keep a Journal of its proceedings. The Journal is intended to assure a public account of legislative activity and constitutes the final official record of action by the General Assembly.

Under the provisions of Sections 6.161, 6.162 and 57.151 of the *Kentucky Revised Statutes*, the Legislative Research Commission is responsible for comparing, editing, correcting, and publishing the Journals as approved by each house of the General Assembly. This volume represents the fulfillment of this obligation for the Regular Session of the House of Representatives of 1988.

The text of a bill is spread in full when it receives a first reading. The vote on passage of a bill is indicated upon its receipt of a third reading, or upon concurrence by the originating house in amendments by the second house. Simple and concurrent resolutions are printed on first reading when applicable or when adopted, and joint resolutions are treated as bills. A table of actions on bills and resolutions is appended. Roll calls on motions to pass legislation have been compiled at Appendix A.

Mrs. Shan Stone Gray, Mrs. Jean Wallace, Mrs. Delores Dearborn and Mrs. Wilda Bond prepared the 1988 House Journal. The edited copy and index in this volume reflect the cooperative efforts of the Commission's staff.

VIC HELLARD, JR.
Director

The Capitol
Frankfort, Kentucky
1988

THURSDAY, MARCH 3, 1988

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Terry Sammons, New Height Baptist Church, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 2, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 164**, **SB 208**, **SB 213**, **SB 235**, **SB 271**, **SB 273**, **SB 275**, **HB 226** with Senate Amendment, **HB 67** and **HB 340**.

Message received on **HB 25**: The Senate has refused to recede from its Committee Substitute to **HB 25** and is respectfully returning same to this Honorable Body asking for a Conference Committee to be appointed. The Senate has appointed the following members to serve on the Conference Committee: Senators Ford, Weaver and Huff.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 1001**, **HB 993**, **HB 992**.

Appropriations and Revenue: **SB 280**, **HB 978**, **HB 1005**, **HB 949**, **HB 977**, **HB 958**, **HB 954**, **HB 997**.

Banking and Insurance: **HB 996**, **HB 1018**, **HB 1020**, **HJR 126**, **HB 953**, **HB 976**.

Business Organizations and Professions: **SB 244**, **HB 956**, **HB 1023**, **HB 988**, **HB 952**, **HB 965**, **HB 955**, **HB 960**.

Cities: **HB 1011**, **HB 1017**, **HB 947**, **HB 974**, **HB 961**, **HJR 123**.

Counties and Special Districts: **SB 224**, **SB 249**, **SCR 53**.

Education: **SB 170**, **HB 980**, **HB 1008**, **HB 1009**, **HB 1010**, **HB 1012**, **HB 1003**, **HB 1004**, **HB 1006**, **HJR 129**, **HCR 131**, **HB 971**.

Energy: **HB 986**.

Health and Welfare: **SB 184**, **HB 1026**, **HB 1025**, **HB 1014**, **HB 987**, **HCR 124**, **HCR 125**, **HB 944**, **HCR 130**, **HB 982**, **HB 968**, **HJR 132**.

Judiciary-Civil: **HB 1027**, **HB 1028**, **HB 1030**, **HB 1000**, **HB 940**, **HB 984**, **HB 964**.

Judiciary-Criminal: **HB 1007**, **HB 1002**, **HB 948**, **HB 983**, **HB 951**, **HB 972**, **HB 975**, **HB 967**, **HB 945**.

Labor and Industry: **HB 1015, HB 994, HB 991, HB 966.**

Natural Resources and Environment: **HB 1029, HB 999, HJR 122.**

State Government: **SB 215, SB 225, SB 270, HB 963, HB 995, HB 1019, HB 1021, HB 1022, HB 1024, HB 989, HB 990, HB 941, HB 942, HCR 133, HB 985, HB 962, HB 969, HB 970, HB 973, HB 979, HB 946, HB 957, HB 1013.**

Transportation: **HB 998, HB 1016, HB 943, HCR 128, HB 950, HB 981.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Cities: **HB 852, HB 961, SB 154, HB 907, HB 1017, HB 880.**

Agriculture and Small Business: **HB 701, HB 712, HB 735, HB 740.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Cities: **HB 646.**

Report of Committees

The Committee on Agriculture and Small Business reported **HB 470** with Committee Amendment attached thereto, **HB 235** with Committee Substitute attached thereto, **HB 443** with Committee Substitute attached thereto, and **HJR 51** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 470, AN ACT relating to dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.215 is amended to read as follows:

(1) Peace officers shall seize and impound any dog which does not bear a proper license tag or other legible identification which is found running at large, but if an officer, after diligent effort to do so, should fail to seize such a dog, it shall then become his duty to destroy the dog by any reasonable and humane means. Any such dog which an officer seizes shall be impounded for seven (7) days, and if not claimed by the owner or sold in accordance with other provisions of this chapter, then such dog may be destroyed in some humane manner.

(2) A hound or other hunting dog which has been released from confinement for hunting purposes shall be deemed to be under reasonable control of its owner or handler while engaged in or returning from hunting, and, if such hunting dog becomes temporarily lost from a pack or wanders from actual control or sight of its owner or handler, such owner or handler shall not be deemed to be in violation of the provisions of this section as a result of such dog's having become temporarily lost or having wandered from immediate control or sight of the owner or handler.

(3) The landowner or tenant, upon whose land the hunting dog has wandered, may keep and feed the dog while attempting to notify the dog's owner of its whereabouts. Such reasonable keep and feeding shall be reimbursed for up to seven (7) days if the landowner or tenant so requests.

The Committee Amendment No. 1 to **HB 470** is as follows:

Amend printed copy of **HB 470** on page 2, line 7, after "*requests*", add the following: "*; also any damage to property, livestock or crops may be assessed*"

HB 235, AN ACT relating to farm debt mediation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Agricultural property" means land that is principally used for farming and personal property that is used as security to finance a farm operation or used as part of a farm operation including equipment, crops, livestock and proceeds of the security.

(2) "Coordinator" means the farm mediation service coordinator provided in Section 2 of this Act.

(3) "Creditor" means the holder of a mortgage on agricultural property, a vendor of a real estate contract for agricultural property, a person with a lien or security interest in agricultural property, or a judgment creditor with a judgment against a debtor with agricultural property.

(4) "File" means to deliver by the required date by certified mail or another method acknowledging receipt.

(5) "Mediation release" means an agreement or statement signed by all parties or by less than all parties and the mediator pursuant to Section 9 of this Act.

(6) "Mediator" shall mean anyone responsible for and engaged in the performance of mediation pursuant to this Act.

(7) "Farm mediation service" shall be the organization set up by this Act to provide farm debt mediation service as provided in Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The director of the agricultural extension service or his designee shall serve as the farm mediation service coordinator. The coordinator has the powers and duties specified in this Act. The coordinator shall set up and direct the farm mediation service to provide farmer-creditor mediation services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies to all creditors of a borrower described under subsection (2) of this section with a secured debt against the borrower of ten thousand dollars ($10,000) or more.

(2) This Act applies to a borrower who is an individual or partnership operating a farm, or a farm family corporation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) A creditor subject to this Act desiring to initiate a proceeding to enforce a debt against agricultural property, to forfeit a contract to purchase agricultural property, to enforce a secured interest in agricultural property, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property, shall file a request for mediation with the farm mediation service. The creditor may not begin the proceeding subject to this Act until the creditor receives a mediation release, or until the court determines after notice and hearing that the time delay required for the mediation would cause the creditor to suffer irreparable harm.

(2) Upon the receipt of a request for mediation, the farm mediation service shall conduct an initial consultation with the borrower without charge. The borrower may waive mediation after the initial consultation.

SECTION 5. A NEW SECTION OF KRS CHAPTER 426 CREATED TO READ AS FOLLOWS:

(1) After receiving a mediation request, the farm mediation service shall refer the borrower to a financial analyst associated with the university of Kentucky extension service. The financial analyst shall assist the borrower in the preparation of information relative to the finances of the borrower for the initial mediation meeting.

(2) After receiving the mediation request, the farm mediation service shall notify the borrower of any legal assistance that may be available in connection with this program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOW:

(1) Unless the borrower waives mediation, within twenty-one (21) days after receiving a mediation request the farm mediation service shall send a mediation meeting notice to the borrower and to all known creditors of the borrower setting a time and place for an initial mediation meeting between the borrower, the creditors, and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one (21) days of the issuance of the mediation meeting notice.

(2) If a creditor subject to this Act receives a mediation meeting notice under subsection (1) of this section, the creditor and the creditor's successors in interest may not continue proceedings to enforce a debt against agricultural property of the borrower, to forfeit a real estate contract for the purchase of agricultural property of the borrower, to enforce a secured interest in agricultural property, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property. Time periods under and affecting those procedures stop running until the farm mediation service issues a mediation release to the creditor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

At the initial mediation meeting and subsequent meetings, the mediator shall:

(1) Listen to the borrower and the creditors desiring to be heard.

(2) Attempt to mediate between the borrower and the creditors.

(3) Advise the borrower and the creditors as to the existence of available assistance programs.

(4) Encourage the parties to adjust, refinance, or provide for payment of the debts.

(5) Advise, counsel, and assist the borrower and creditors in attempting to arrive at an agreement for the future conduct of financial relations among them.

SECTION 8. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The mediator may call mediation meetings during the mediation period, which is up to forty-two (42) days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

SECTION 9. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) If an agreement is reached between the borrower and the creditors, the mediator shall draft a written mediation agreement, have it signed by the creditors, and submit the agreement to the farm mediation service.

(2) The borrower and the creditors who are parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

(3) If the borrower waives mediation, or if a mediation agreement is not reached, the borrower and the creditors may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release. Unless the borrower waives mediation, a creditor shall not receive a mediation release until the creditor has participated in at least one (1) mediation meeting.

SECTION 10. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

Upon petition by the borrower and all known creditors, the farm mediation service may, for good cause, extend a deadline imposed by Section 6 or Section 8 of this Act for up to thirty (30) days.

SECTION 11. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) All data regarding the finances of individual borrowers and creditors which is created, collected, and maintained by the farm mediation service are not public records under KRS 61.870 to 61.884.

(2) Meetings of the farm mediation service are closed meetings and are not subject to KRS 61.805 to 61.850.

SECTION 12. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The coordinator shall adopt administrative regulations pursuant to KRS Chapter 13A to set the compensation of mediators and to implement this Act. The compensation of the mediators shall be no more than twenty-five dollars ($25) per hour, and all parties shall contribute an equal amount of the cost. The coordinator shall adopt voluntary mediation application and mediation request forms.

SECTION 13. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

A borrower who owns agricultural property or a creditor of that borrower may request mediation of the indebtedness by applying to the farm mediation service. The farm mediation service shall make voluntary mediation application forms available. The farm mediation service shall evaluate each request and may direct a mediator to meet with the borrower and creditor to assist in mediation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

This Act shall not be construed as repealing any of the laws of the Commonwealth, but shall be held and construed as ancillary and supplemental thereto.

The Committee Substitute to **HB 235** is as follows:

HB 235, AN ACT relating to farm debt mediation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Agricultural property" means land that is principally used for farming and personal property that is used as security to finance a farm operation or used as part of a farm operation including equipment, crops, livestock and proceeds of the security.

(2) "Coordinator" means the farm mediation service coordinator provided in Section 2 of this Act.

(3) "Creditor" means the holder of a mortgage on agricultural property, a vendor of a real estate contract for agricultural property, a person with a lien or security interest in agricultural property, or a judgment creditor with a judgment against a debtor with agricultural property.

(4) "File" means to deliver by the required date by certified mail or another method acknowledging receipt.

(5) "Mediation release" means an agreement or statement signed by all parties or by less than all parties and the mediator pursuant to Section 9 of this Act.

(6) "Mediator" shall mean anyone responsible for and engaged in the performance of mediation pursuant to this Act.

(7) "Farm mediation service" shall be the organization set up by this Act to provide farm debt mediation service as provided in Section 2 of this Act.

(8) "Family farm corporation" means a corporation:

(a) Founded for the purpose of farming and the ownership of agricultural land in which the majority of the voting stock is held by and the majority of the stockholders are persons related to each other as spouse, parent, grandparent, lineal ascendants of grandparents or their spouses and other lineal descendents of the grandparents or their spouses, or persons acting in a fiduciary capacity for persons so related;

(b) All of its stockholders are natural persons or persons acting in a fiduciary capacity for the benefit of natural persons or family trusts; and

(c) Sixty percent (60%) of the gross revenues of the corporation over the last consecutive three (3) year period comes from farming.

SECTION 2. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The commissioner of agriculture shall appoint the farm mediation service coordinator, and the farm mediation service shall be attached to the Kentucky department of agriculture for administrative purposes. The coordinator has the powers and duties specified in this Act. The coordinator shall set up and direct the farm mediation service to provide farmer-creditor mediation services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The farm mediation advisory board is created which shall consist of a representative from each of three (3) farm organizations, a representative from commercial banking, a representative of the federal farm credit system, a representative of the federal farmers home administration, a representative of a farm advocacy group, or community or religious leader who can act as a farm advocate, a member of the legal profession, and an insurance company representative. The commissioner of the department of agriculture, or his representative, and a representative of the Kentucky cooperative extension service shall be non-voting, ex-officio members of the board. The members shall be appointed by the governor and shall serve without compensation but shall receive reimbursement for actual, necessary, and reasonable expenses in the discharge of their duties.

(2) The board shall:

(a) Provide input and overall direction to the administrating agency;

(b) Assist in creating awareness and understanding of the farm mediation service;

(c) Provide feedback to the governor and the legislature; and

(d) Maintain a neutral position supportive of the merits of mediation.

SECTION 4. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) This Act applies to all creditors of a borrower described under subsection (2) of this section with a secured debt against the borrower of ten thousand dollars ($10;000) or more.

(2) This Act applies to a borrower who is an individual or partnership operating a farm, or a farm family corporation.

(3) All lenders and borrowers of agricultural loans shall be given adequate notification of the mediation program.

SECTION 5. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) A creditor subject to this Act desiring to initiate a proceeding to enforce a debt against agricultural property, to forfeit a contract to purchase agricultural property, to enforce a secured interest in agricultural property, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property, shall file a request for mediation with the farm mediation service. The creditor may not begin the proceeding subject to this Act until the creditor receives a mediation release; however, the creditor may begin the process if the court determines after notice and hearing that the time delay required for the mediation would cause the creditor to suffer irreparable harm.

(2) Upon the receipt of a request for mediation, the farm mediation service shall notify the borrower within five (5) days and conduct an initial consultation without charge. The borrower may waive mediation after the initial consultation.

(3) If mediation proceeds, the borrower shall list all his creditors and they shall be notified of pending mediation.

(4) A creditor who is participating in the mediation and who has a security agreement relating to agricultural property under the borrower's control may inspect the secured agricultural property during normal business hours on twenty-four (24) hours' notice to the borrower. For purposes of this subsection, "normal business hours" means 8 a.m. to 6 p.m. Monday through Saturday but excludes legal Kentucky and United States holidays.

(5) If mediation proceeds, the farm mediation service shall refer the borrower to a financial analyst associated with the university of Kentucky extension service. The financial analyst shall assist the borrower in the preparation of information relative to the finances of the borrower for the initial mediation meeting. The farm mediation service shall also notify the borrower of any legal assistance that may be available in connection with this program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOW:

(1) Unless the borrower waives mediation, within twenty-one (21) days after receiving a mediation request the farm mediation service shall send a mediation meeting notice to the borrower and to all known creditors of the borrower setting a time and place for an initial mediation meeting between the borrower, the creditors, and a mediator directed by the farm mediation service to assist in mediation. An initial mediation meeting shall be held within twenty-one (21) days of the issuance of the mediation meeting notice.

(2) If a creditor subject to this Act receives a mediation meeting notice under subsection (1) of this section, the creditor and the creditor's successors in interest may not continue proceedings to enforce a debt against agricultural property of the borrower, to forfeit a real estate contract for the purchase of agricultural property of the borrower, to enforce a secured interest in agricultural property, or to otherwise garnish, levy on, execute on, seize, or attach agricultural property. Time periods under and affecting those procedures stop running until the farm mediation service issues a mediation release to the creditor.

SECTION 7. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) At the initial mediation meeting and subsequent meetings, the mediator shall:

(a) Listen to the borrower and the creditors desiring to be heard.

(b) Attempt to mediate between the borrower and the creditors.

(c) Advise the borrower and the creditors as to the existence of available assistance programs.

(d) Encourage the parties to adjust, refinance, or provide for payment of the debts.

(e) Advise, counsel, and assist the borrower and creditors in attempting to arrive at an agreement for the future conduct of financial relations among them.

(2) The director shall provide training to prepare the mediators for the duties including but not necessarily limited to those outlined in subsection (1) of this section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The mediator may call mediation meetings during the mediation period, which is up to forty-two (42) days after the farm mediation service received the mediation request. However, if all parties consent, mediation may continue after the end of the mediation period.

SECTION 9. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) If an agreement is reached between the borrower and the creditors, the mediator shall draft a written mediation agreement, have it signed by the creditors, and submit the agreement to the farm mediation service.

(2) The borrower and the creditors who are parties to the mediation agreement may enforce the mediation agreement as a legal contract. The agreement constitutes a mediation release.

(3) If the borrower waives mediation, or if a mediation agreement is not reached, the borrower and the creditors may sign a statement prepared by the mediator that mediation was waived or that the parties did not reach an agreement. If any party does not sign the statement, the mediator shall sign the statement. The statement constitutes a mediation release. Unless the borrower waives mediation, a creditor shall not receive a mediation release until the creditor has participated in at least one (1) mediation meeting. If a creditor has participated in at least one (1) mediation meeting and no longer wishes to proceed, the mediator shall immediately issue a mediation release.

(4) Once a mediation release is obtained, mediation shall not be repeated on debts included in the release.

SECTION 10. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

Upon petition by the borrower and all known creditors, the farm mediation service may, for good cause, extend a deadline imposed by Section 6 or Section 8 of this Act for up to thirty (30) days.

SECTION 11. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) All data regarding the finances of individual borrowers and creditors which is created, collected, and maintained by the farm mediation service are not public records under KRS 61.870 to 61.884.

(2) Meetings of the farm mediation service are closed meetings and are not subject to KRS 61.805 to 61.850.

SECTION 12. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

The coordinator shall adopt administrative regulations pursuant to KRS Chapter 13A to set the compensation of mediators and to implement this Act. The compensation of the mediators shall be no more than twenty-five dollars ($25) per hour. The charge to each party shall be twenty-five dollars ($25) per hour. The excess above that needed to compensate the mediator shall be used for other purposes of this Act. The coordinator shall adopt voluntary mediation application and mediation request forms.

SECTION 13. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

A borrower who owns agricultural property or a creditor of that borrower may request mediation of the indebtedness by applying to the farm mediation service. The farm mediation service shall make voluntary mediation application forms available. The farm mediation service shall evaluate each request and may direct a mediator to meet with the borrower and creditor to assist in mediation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

This Act shall not be construed as repealing any of the laws of the Commonwealth, but shall be held and construed as ancillary and supplemental thereto.

SECTION 15. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall not take effect until after October 1, 1988, and then only after federal matching grants for state mediation programs become available.

(2) The provisions of this Act shall expire October 1, 1991.

Section 16. To carry out the purposes of this Act, there is appropriated to the Kentucky department of agriculture out of the general fund in the state treasury the sum of fifty-three thousand dollars ($53,000) for the 1988-89 fiscal year and seventy thousand dollars ($70,000) for the 1989-90 fiscal year.

HB 443, AN ACT relating to animal shelters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

As used in this Act, the following definitions shall apply:

(1) "Animal" means a cat, dog, or any sentient being other than a human;

(2) "Animal control agency" means the local organization or governmental unit designated by the appropriate governmental body to house, care for and control animals of unknown ownership;

(3) "Cabinet" means the cabinet for human resources; and

(4) "Secretary" means the secretary for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

(1) Animal shelters and animal control facilities shall dispose of unclaimed, living animals only by the following means:

(a) Placement for adoption in a suitable home;

(b) Retention by the shelter; or

(c) Humane destruction.

(2) An animal control agency shall not place for adoption or destroy an animal until:

(a) The animal has been carefully inspected for a tag, tattoo, or other identification to ascertain the owner;

(b) The owner is notified if the owner's identity reasonably may be ascertained by the inspection; and

(c) Seventy-two (72) hours after notice has been given to the owner.

(3) An animal control agency shall not sell an impounded animal.

(4) The owner shall pay all fees and expenses incurred by the animal control agency. A new owner may be charged an adoption fee.

(5) The secretary shall issue rules and regulations pursuant to this Act.

Section 3. KRS 258.990 is amended to read as follows:

(1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065 or 258.085, shall be fined not less than ten dollars ($10.00) nor more than one hundred dollars ($100). Each day of violation shall constitute a separate offense.

(2) The owner of any dog not vaccinated according to the provisions of this chapter shall be liable to pay all damages for personal injuries resulting from the bite of such dog, if rabid.

(3) Any person violating or failing or refusing to comply with KRS 258.095 to 258.365 and subsections (3) and (4) of this section shall, upon conviction, be fined not less than five dollars ($5.00) and not more than one hundred dollars ($100) or be imprisoned for not less than five (5) nor more than sixty (60) days or both so fined and imprisoned.

(4) All fines collected under subsection (3) of this section shall after costs and commissions have been deducted, be paid to the department to be credited to the livestock fund.

(5) Any person who violates any provision of this Act shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000) or confined in the county jail for not less than thirty (30) days nor more than twelve (12) months, or both. Each subsequent violation of any provision of this Act shall constitute a felony and be punishable by a fine of not less than three thousand dollars ($3,000) nor more than ten thousand dollars ($10,000) or by imprisonment in the penitentiary for not less than one (1) nor more than three (3) years, or both. Each animal constitutes a separate offense.

The Committee Substitute to **HB 443** is as follows:

HB 443, AN ACT relating to animal shelters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

As used in this chapter:

(1) "Animal" means every warm blooded living creature except a human, and includes amphibians, reptiles and fish if abandoned by a human owner.

(2) "Animal control agency" means any organization or individual accepting abandoned animals pursuant to governmental authority, and includes dog wardens, public pounds, animal shelters and humane societies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

An animal control agency shall meet the following minimum standards:

(1) The agency shall accept all abandoned animals, or shall make arrangements for their care pending disposition.

(2) The agency shall provide the animals with food adequate for proper nutrition and with shelter adequate to protect from adverse weather conditions.

(3) The agency shall inspect each animal for a tag, tattoo or other evidence of ownership upon its delivery.

(4) The agency shall attempt to locate the owners of lost animals, and shall attempt to place for adoption as pets any animals suitable for adoption.

(5) If the agency destroys an animal in its care, it shall utilize a humane method of destruction. The agency shall train its employes responsible for humane destruction in proper methods.

(6) The agency may charge an adoption fee, to cover the cost of a certificate entitling the recipient to have the adopted animal spayed, neutered or vaccinated by a consenting veterinarian.

(7) The agency may assess an owner who recovers his lost animal from the agency for its costs incurred in caring for the animal.

(8) The agency may assess an owner charged with cruelty whose animal has been confiscated and delivered to the agency for its costs incurred in caring for the animal.

(9) The agency shall hold an animal for seven (7) days before disposition, unless the animal was delivered to the shelter by its owner, or is seriously ill or injured.

SECTION 3. A NEW SECTION OF KRS CHAPTER 258 IS CREATED TO READ AS FOLLOWS:

Any person aggrieved by a violation of this Act may bring an action in the circuit court for the county in which the violation occurred to enjoin the continued violation or to revoke the governmental authority under which the animal control agency is operated. A receiver may be appointed by the court to manage the affairs of the animal control agency.

Section 4. KRS 258.990 is amended to read as follows:

(1) Any person who violates KRS 258.015, 258.035, 258.055, 258.065 or 258.085, shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation shall constitute a separate offense.

(2) The owner of any dog not vaccinated according to the provisions of this chapter shall be liable to pay all damages for personal injuries resulting from the bite of such dog, if rabid.

(3) Any person violating or failing or refusing to comply with KRS 258.095 to 258.365 [~~and subsections (3) and (4) of this section~~] shall, upon conviction, be fined not less than five dollars ($5) and not more than one hundred dollars ($100) or be imprisoned for not less than five (5) nor more than sixty (60) days or both so fined and imprisoned.

(4) *Any person who knowingly violates this Act shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100), be imprisoned for not less than five (5) days nor more than sixty (60) days, or barred from ownership of, operation of, or employment by an animal control agency, or any combination thereof.*

(5) All fines collected under *subsections* [~~subsection~~] (3) *and (4)* of this section shall after costs and commissions have been deducted, be paid to the department of *agriculture* to be credited to the livestock fund.

HJR 51, A JOINT RESOLUTION making a special appropriation to the Kentucky small business development center program.

WHEREAS, small businesses in Kentucky comprise 97% of all businesses in the Commonwealth; and

WHEREAS, small businesses in Kentucky employ over 50% of all private sector workers in Kentucky; and

WHEREAS, small businesses in Kentucky accounted for almost 70% of all new jobs created in the Commonwealth between 1979 and 1986; and

WHEREAS, small businesses in Kentucky generated over $650,000,000 in tax revenue during 1986; and

WHEREAS, the Kentucky small business development center program is of critical importance to small business growth and development in the Commonwealth, and is a statewide service located in 15 service centers, including Ashland, Pikeville, Morehead, Highland Heights, Cumberland, Somerset, Lexington, Louisville, Elizabethtown, Frankfort, Bowling Green, Owensboro, Hopkinsville, and Murray; and

WHEREAS, the Kentucky small business development centers are an important and vital business development service which is provided through the University of Kentucky, Morehead State University, Northern Kentucky University, Southeast Community College, Eastern Kentucky University, University of Louisville, Bellarmine College, Western Kentucky University, and Murray State University; and

WHEREAS, the Kentucky development planning commission, established by 1986 **SCR 78**, recommended that additional state funding be made available to strengthen the Kentucky small business development center program;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Funds appropriated by this resolution shall be allocated to the Kentucky small business development center programs as follows:

(a) Establish electronic linkage between the 15 service centers by networking center computers.

(b) Increase emphasis on the training programs for business clients and linkages with local communities by creating training and public relations coordinators in each of the 4 district office staffs.

(c) Create linkages within communities for counseling assistance, to include the Kentucky small business development centers, bankers, accountants, chambers of commerce and others.

(d) Establish a program of procurement assistance for Kentucky businesses. This will enable Kentucky businesses to be better prepared to compete for federal and state procurement contracts.

(e) Increase education and training for Kentucky small business development center personnel. This will increase staff development and training programs in quality and quantity.

Section 2. State funds appropriated through this resolution shall be channeled through the Commerce Cabinet which shall oversee and monitor their allocation to, and expenditure by, the Kentucky small business development center program. The center shall at least annually report to the cabinet on the expenditure of funds here appropriated and more often as required by the cabinet.

Section 3. To carry out the purposes of this resolution, there is appropriated to the Commerce Cabinet out of the General Fund in the State Treasury the sum of $250,000 in fiscal year 1989 and $250,000 in fiscal year 1990.

The Committee on Business Organization and Professions reported **HB 728** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 728, AN ACT relating to sales representatives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context otherwise requires:

(1) "Commissions" means compensation accruing to a sales representative for payment by a principal, the rate of which is expressed as a percentage of the amount of orders or sales or as a specified amount per order or per sale.

(2) "Person" means an individual, corporation, partnership, association, estate, or trust.

(3) "Principal" means a person who does not have a permanent or fixed place of business in this state and who:

(a) Manufacturers, produces, imports, or distributes a tangible product for wholesale;

(b) Contracts with a sales representative to solicit orders for the product; and

(c) Compensates the sales representative, in whole or in part, by commission.

(4) "Sales representative" means a person who:

(a) Contracts with a principal to solicit wholesale orders;

(b) Is compensated, in whole or in part, by commission;

(c) Does not place orders or purchase for his own account or for resale; and

(d) Does not sell or take orders for the sale of products to the ultimate consumer.

SECTION 2. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

(1) When a contract between a sales representative and a principal is terminated for any reason, the principal shall pay the sales representative all commissions accrued under the contract to the sales representative within thirty (30) days after the effective date of such termination.

(2) A principal who fails to comply with the provisions of subsection (1) of this section shall be liable to the sales representative in a civil action for:

(a) All amounts due the sales representative plus exemplary damages in an amount not to exceed two (2) times the amount of commissions due the sales representative; and

(b) Attorney's fees actually and reasonably incurred by the sales representative in the action and court costs.

(3) Where the court determines that an action brought by a sales representative against a principal under this Act is frivolous, the sales representative shall be liable to the principal for attorney's fees actually and reasonably incurred by the principal in defending the action and court costs.

(4) Nothing in this Act shall invalidate or restrict any additional right or remedy available to a sales representative or preclude a sales representative from seeking to recover in an action on any other claim against a principal.

SECTION 3. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

A principal who is not a resident of this state that contracts with a sales representative to solicit orders in this state is declared to be doing business in this state for purposes of the exercise of personal jurisdiction over non-residents under KRS Chapter 454.

SECTION 4. A NEW SECTION OF KRS CHAPTER 371 IS CREATED TO READ AS FOLLOWS:

A provision in any contract between a sales representative and a principal purporting to waive any provision of this Act, whether by expressed waiver or by a contract subject to the laws of another state, shall be void.

The Committee on Business Organizations and Professions reported **HB 752** and **HB 841** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 752, AN ACT relating to self-service storage facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 359 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Self-service storage facility" means any real property used for renting or leasing individual storage spaces in which the occupants themselves customarily store and remove their own personal property on a "self-service" basis.

(2) "Rental agreement" means any written agreement that establishes or modifies the terms, conditions, or rules concerning the use and occupancy of a self-service storage facility.

(3) "Leased space" means the individual storage space at the self-service facility which is rented to an occupant pursuant to a rental agreement.

(4) "Occupant" means a person, a sublessee, successor, or assign, entitled to the use of a leased space at a self-service storage facility under a rental agreement.

(5) "Operator" means the owner, operator, lessor, or sublessor of a self-service storage facility, an agent or any other person authorized to manage the facility, but does not mean a warehouseman, unless the operator issues a warehouse receipt, bill of lading, or other document of title for the personal property stored.

(6) "Personal property" means movable property, not affixed to land and includes, but is not limited to, goods, wares, merchandise, motor vehicles, watercraft, and household items and furnishings.

(7) "Default" means the failure to perform on time any obligation or duty set forth in the rental agreement.

(8) "Last known address" means that address provided by the occupant in the rental agreement or the address provided by the occupant in a subsequent written notice of a change of address.

SECTION 2. A NEW SECTION OF KRS CHAPTER 359 IS CREATED TO READ AS FOLLOWS:

((1) An operator shall not knowingly permit a leased space at a self-service storage facility to be used for residential purposes.

(2) An occupant shall not use a leased space for residential purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 359 IS CREATED TO READ AS FOLLOWS:

(1) The operator of a self-service storage facility shall have a lien on all personal property stored within each leased space for rent, labor, or other charges, and for expenses reasonably incurred in its sale, as provided in this Act.

(2) The rental agreement shall contain a statement, in bold type, advising the occupant:

(a) Of the existence of the lien; and

(b) That property stored in the leased space may be sold to satisfy the lien if the occupant is in default.

SECTION 4. A NEW SECTION OF KRS CHAPTER 359 IS CREATED TO READ AS FOLLOWS:

(1) (a) If the occupant is in default for a period of more than forty-five (45) days, the operator may enforce a lien by selling the property stored in the leased space at a public or private sale, for cash.

(b) Proceeds shall then be applied to satisfy the lien, with any surplus disbursed as provided in subsection (5) of this section.

(2) Before conducting a sale under subsection (1), the operator shall:

(a) Notify the occupant of the default by regular mail at the occupant's last known address;

(b) Send a second notice of default by certified mail to the occupant at the occupant's last known address

which includes:

1. A statement that the contents of the occupant's leased space are subject to the operator's lien;

2. A statement of the operator's claim, indicating the charges due on the date of the notice, the amount of any additional charges which shall become due before the date of sale, and the date those additional charges shall become due;

3. A demand for payment of the charges due within a specified time, not less than fourteen (14) days after the date of the notice;

4. A statement that unless the claim is paid within the time stated, the contents of the occupant's space shall be sold at a specified time and place; and

5. The name, street address, and telephone number of the operator, or his designated agent, whom the occupant may contact to respond to the notice; and

(c) At least three (3) days before the sale, advertise the time, place, and terms of the sale in a newspaper of general circulation in the jurisdiction where the sale is to be held.

(3) At any time before a sale under this section, the occupant may pay the amount necessary to satisfy the lien and redeem the occupant's personal property.

(4) The sale under this section shall be held at the self-service storage facility where the personal property is stored.

(5) If a sale is held under this section, the operator shall:

(a) Satisfy the lien from the proceeds of the sale;

(b) Hold the balance, if any, for delivery to any other recorded lienholders who present claims within sixty (60) days. Claims shall be satisfied on a first come first served basis; and

(c) Deliver, upon expiration of sixty (60) days, the balance of any remaining proceeds to the occupant.

(6) A purchaser in good faith of any personal property sold under this Act takes the property free and clear of any rights of:

(a) Persons against whom the lien was valid; and

(b) Other lienholders.

(7) If the operator complies with the provisions of this Act, the operator's liability:

(a) To the occupant shall be limited to the net proceeds received from the sale of the personal property;

(b) To other lienholders shall be limited to the net proceeds received from the sale of any personal property covered by that other lien; and

(c) To the occupant or valid lienholders shall be relieved upon full distribution of proceeds in accordance with the provisions of this Act.

(8) If an occupant is in default, the operator may deny the occupant access to the leased space.

(9) (a) Unless otherwise specifically provided, all notices required by this Act shall be sent by certified mail.

(b) 1. Notices sent to the operator shall be sent to the self-service storage facility where the occupant's property is stored.

2. Notices to the occupant shall be sent to the occupant at the occupant's last known address.

(c) Notices shall be deemed delivered when deposited with the United States Postal Service, properly addressed as provided in paragraph (b), with postage paid.

(10) Provided, however, unless the rental agreement specifically provides otherwise and until a lien sale under this Act, the exclusive care, custody, and control of all personal property stored in the leased self-service storage space shall remain vested in the occupant.

SECTION 5. A NEW SECTION OF KRS CHAPTER 359 IS CREATED TO READ AS FOLLOWS:

All rental agreements, entered into before the effective date of this Act, which have not been extended or renewed after that date, shall remain valid and may be enforced or terminated in accordance with their terms or as permitted by any other statute or law of this state.

SECTION 6. A NEW SECTION OF KRS CHAPTER 359 IS CREATED TO READ AS FOLLOWS:

This Act shall be known as the "Kentucky Self-Service Storage Act of 1988."

HB 841, AN ACT relating to substance abuse treatment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 222.440 is amended to read as follows:

(1) Notwithstanding any other provision of law, a minor who suffers from alcoholism or other drug abuse or addiction, or who requires treatment for being under the influence of drugs or alcohol, *or the parent or guardian of such minor* may give consent to the furnishing of medical care or counseling related to the diagnosis or treatment of such condition. The consent of the minor shall be valid as if the minor had achieved majority. No person or facility shall incur liability by reason of having made a diagnostic examination or rendered treatment as provided in this section, but such immunity shall not apply to any negligent acts or omissions.

(2) A minor hospitalized or treated without his consent but with the consent of his parent or guardian may petition the district court to determine whether or not he is suffering from alcohol or drug abuse or addiction and whether or not such treatment is necessary for the health and welfare of the minor.

The Committee on Health and Welfare reported **HB 20** with Committee Amendment attached thereto, **HB 521** with Committee Amendment attached thereto, **HB 536** with Committee Substitute attached thereto, **HB 545** with Committee Amendment attached thereto, **HB 555** and **HB 671** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 20. AN ACT relating to the improvement of residential child care in Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires:

(a) "Allowable costs" means all allowable costs as defined by the federal office of management and budget circular A-122, "cost principles for nonprofit organizations," utilizing cost data from the child-caring facility's

most recent yearly audited financial statement.

(b) "Child-caring facility" means any institution or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes providing residential care on a twenty-four (24) hour basis to children, not related by blood, adoption or marriage to the person maintaining the facility.

(c) "Department" means the department for social services of the cabinet for human resources.

(2) When the department for social services chooses to place a child in a nonprofit child-caring facility, the department shall reimburse that facility the allowable cost of the child's care, subject to the limitation set forth in subsection (3) of this section.

(3) When the department for social services chooses to place a child in a nonprofit child-caring facility, the per diem rate of reimbursement for such child's care shall not exceed seventy-five percent (75%) of the average per diem cost in the most comparable residential facility operated by the department. The per diem rate shall be based on actual total facility occupancy for the most recent audited year or ninety percent (90%) of the facility capacity for the audited year, whichever is greater.

The Committee Amendment No. 1 to **HB 20** is as follows:

Amend printed copy of **HB 20** on page 2, line 14,

By adding the following new subsection: "*(4) The secretary shall, to the extent funds are appropriated, implement the reimbursement methodology set forth in this section. If funds are insufficient in any given fiscal year to fully fund this provision, available funds shall be adjusted by determining the reimbursement schedule and adjusting by the same percentage as the ratio of available funds to estimated full cost.*"

HB 521, AN ACT relating to the licensure discipline of the practice of medicine and osteopathy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 311.541 is amended to read as follows:

The board [~~advocate~~] may purchase liability insurance for the protection of all members of the board to protect them from liability arising in the course of pursuing their duties as members of the board and for all full-time employes to protect them from liability arising in the course or scope of their employment. This insurance shall be purchased with money contained in the trust and agency fund of the board.

Section 2. KRS 311.565 is amended to read as follows:

The board is authorized and empowered to:

(1) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy *which shall include, but not be limited to, promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees*;

(2) Promulgate reasonable rules and regulations establishing moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses and permits that may be issued by the board;

(3) Issue, deny, suspend, limit, restrict and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620;

(4) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary as provided by KRS 311.530 to 311.620 and shall carry out the duties of the executive director

as set forth elsewhere in this chapter;

(5) Appoint a general counsel and assistant general counsel and fix their compensation;

(6) Appoint investigatory personnel and fix their compensation;

(7) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every such hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension and revocation of licenses, and shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript of the record of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer. Every such hearing officer shall be authorized to administer oaths and issue summonses, notices and subpoenas, but shall not be empowered to place any licensee on probation or to issue, refuse, suspend, limit or revoke any license;

(8) Appoint committees of licensees, who need not be board members, to review issues *of public or medical interest* before the board and *to* make recommendations to the board *on said issues*[~~, including a physician review advisory committee, which may have at least one (1) non-physician member and which shall have the power to review grievances and recommend action to the board in accordance with the provisions of KRS 311.591 and 311.592~~];

(9) Promulgate regulations to promote the efficient and fair conduct of disciplinary proceedings;

(10) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally recognized principles of professional ethical conduct;

(11) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;

(12) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(13) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Gaint Committee of Preregistration Physician Training Programs, or any approved successors thereof;

(14) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable rules and regulations of the board;

(15) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to *administrative* [~~rules and~~] regulations prescribed by the board[~~; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for non-disciplinary reasons~~];

(16) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies or individuals to prepare examination questions and grade examination papers;

(17) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;

(18) Prescribe the time, place, method, manner, scope and content of examinations; provided, however, that at least two (2) examinations shall be held annually;

(19) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(20) Prescribe and collect reasonable fees and charges for examinations, directories and the issuance and renewal of licenses and permits;

(21) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly promulgated disciplinary regulation of the board; and

(22) Exercise all the administrative functions of the state in regard to the regulation of physician assistants. In promulgating these regulations under the provisions of KRS Chapter 13A, the board shall address:

(a) The professional qualifications of physician assistants;

(b) The supervision of physician assistants by licensed physicians;

(c) The review and discipline of physician assistants and their supervising physicians;

(d) The scope of practice allowed physician assistants;

(e) The facilities in which physician assistants may practice; and

(f) The delegation of responsibilities from physicians to physician assistants.

The board is specifically authorized to establish qualifications that the physician assistants shall attain before the board grants the right to practice in this state. At a minimum, these qualifications shall include the passage of a written examination approved by the board and satisfactory completion of a clinical training program approved by the board. The board may establish an advisory committee to aid the board in the regulation of physician assistants, who shall be considered adjuncts to supervising physicians and not independent practitioners of any healing art.

Section 3. KRS 311.595 is amended to read as follows:

Where such power has not been transferred by statute to some other board, commission or agency of this state, the board may deny an application for a license; place a licensee on probation for a period not to exceed five (5) years; suspend a license for a period not to exceed five (5) years; limit or restrict a license for an indefinite period; or revoke any license heretofore or hereafter issued by the board, upon proof that the licensee has:

(1) Knowingly made or presented, or caused to be made or presented, any false, fraudulent or forged statement, writing, certificate, diploma or other thing, in connection with an application for a license or permit.

(2) Practiced, or aided or abetted in the practice of fraud, forgery, deception, collusion or conspiracy in connection with an examination for a license.

(3) Committed, procured or aided in the procurement of an unlawful abortion.

(4) *Entered a guilty or nolo contendere plea, or* been convicted, by any court within or without the Commonwealth of Kentucky, of committing an act which is, or would be a felony under the laws of the Commonwealth of Kentucky, or of the United States, or of any crime involving moral turpitude which is a misdemeanor, under such laws.

(5) Become addicted to a controlled substance.

(6) Become a chronic or persistent alcoholic.

(7) Developed such physical or mental disability, or other condition, that continued practice is dangerous to patients or to the public.

(8) Engaged in dishonorable, unethical, or unprofessional conduct of a character likely to deceive, defraud or harm the public or any member thereof.

(9) Knowingly made, or caused to be made, or aided or abetted in the making of, a false statement in any document executed in connection with the practice of his profession.

(10) Employed, as a practitioner of medicine or osteopathy in the practice of his profession in this state, any person not duly licensed or otherwise aided, assisted or abetted the unlawful practice of medicine or osteopathy or any other healing art.

(11) Violated or attempted to violate, directly or indirectly, or assisted in or abetted the violation of, or conspired to violate any provision or term of any medical practice act, including but not limited to the code of conduct promulgated by the board under KRS 311.601 or any other valid regulation of the board.

(12) Violated any order of suspension, or the terms or conditions of any order of probation, issued by the board.

(13) Engaged in or attempted to engage in the practice of medicine or osteopathy under a false or assumed name, or impersonated another practitioner of a like, similar or different name.

(14) Obtained a fee or other thing of value on the fraudulent representation that a manifestly incurable condition could be cured.

(15) Willfully violated a confidential communication.

(16) Had his license to practice medicine or osteopathy in any other state, territory or foreign nation revoked, suspended, restricted or limited or has been subjected to other disciplinary action by the licensing authority thereof.

(17) Failed or refused, without legal justification, to practice medicine in a rural area of this state in violation of a valid medical scholarship loan contract with the trustees of the rural Kentucky medical scholarship fund.

(18) Given or received, directly or indirectly, from any person, firm, or corporation, any fee, commission, rebate, or other form of compensation for sending, referring or otherwise inducing a person to communicate with a person licensed under KRS 311.530 to 311.620 in his professional capacity or for any professional services not actually and personally rendered; provided, however, that nothing contained in this subsection shall prohibit persons holding valid and current licenses under KRS 311.530 to 311.620 from practicing medicine in partnership or association or in a professional service corporation authorized by KRS Chapter 274, as now or hereinafter amended, or from pooling, sharing, dividing or apportioning the fees and moneys received by them or by the partnership, corporation or association in accordance with the partnership agreement or the policies of the board of directors of the corporation or association. Nothing contained in this subsection shall abrogate the right of two or more persons holding valid and current licenses under KRS 311.530 to 311.620 to receive adequate compensation for concurrently rendering professional care to a single patient and divide a fee, provided the patient has full knowledge of this division and provided the division is made in proportion to the services performed and responsibility assumed by each.

(19) Been removed, suspended or expelled by any professional medical association or society when such action was based upon what said association or society found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provision of KRS Chapter 311.

(20) Been disciplined by a licensed hospital or medical staff of said hospital, including removal, suspension, limitation of hospital privileges, failing to renew privileges for cause, *resignation of privileges under pressure or investigation*, or other disciplinary action if such action was based upon what said hospital or medical staff found to be unprofessional conduct, professional incompetence, malpractice, or a violation of any provisions of KRS Chapter 311.

Section 4. KRS 311.602 is amended to read as follows:

(1) In order to assist a licensee in determining what actions would constitute unacceptable conduct under the provisions of KRS 311.595, the licensee may request an opinion of the board by written request submitted to the secretary; the board *may* [~~shall~~] cause a written response to be made to each requesting licensee *if said request addresses an issue of such public or medical interest that the board's opinion on the subject is deemed desirable.*

(2) In formulating a response to a request, the board may request an opinion from any concerned medical or osteopathic professional association or society; however, the board shall not be bound by such a supplemental opinion.

(3) The board shall keep a permanent record of all such requests made and the response thereto; further, the board may publish its opinions.

Section 5. KRS 311.603 is amended to read as follows:

There shall be no monetary liability on the part of, and no cause of action for damages shall arise against, any current or former member, officer, administrator, staff member, committee member, representative, agent or employe of the board, either as a part of the board's operation or as an individual, as the result of any act, omission, proceeding, conduct, or decision related to their official duties undertaken or performed within the scope of the function of the board, except where actual malice is shown or willful misconduct is involved [~~Members of the board shall be immune from suit in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith as members of said board~~].

Section 6. KRS 311.610 is amended to read as follows:

All fees collected by the board under the provisions of KRS 311.550 to 311.620, or the rules and regulations adopted pursuant thereto, shall be paid into the state treasury and credited to a trust and agency fund to be used by the board in defraying the costs and expenses of the board in the administration of KRS 311.550 to 311.620, including, but not limited to, salaries and necessary travel expenses. No part of this fund shall revert to the general funds of this Commonwealth. *The board may direct the investment of that portion of its revolving fund not needed to meet current expenses, the earnings from which investments shall also be credited to the revolving fund of the board.*

The Committee Amendment No. 1 to **HB 521** is as follows:

Amend printed copy of **HB 521** on page 12, by deleting lines 10 through 23 in their entirety.

HB 536, AN ACT relating to nurse aide training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Board" means the board for nurse aide training;

(2) "Nurse aide" means any unlicensed aide, assistant or orderly who performs nursing services directed at the safety, comfort, personal hygiene, or protection of patients in a skilled nursing or intermediate care facility as defined by regulations of the cabinet for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) After October 1, 1989, all nurse aides employed in skilled nursing and intermediate care facilities, as defined by regulations of the cabinet for human resources, shall complete a one hundred (100) hour training program within four (4) months of the date of the person's initial employment and shall annually complete ten (10) hours of continuing education on patient-specific procedures after one (1) full year of employment. Training programs shall be approved as provided in Section 3 of this Act.

(2) Persons employed as a nurse aide in skilled nursing and intermediate care facilities prior to July 1, 1989 shall successfully pass a competency test as prescribed by the board or shall successfully complete a training program by January 1, 1990.

(3) Upon successfully completing an approved training program or successfully passing a competency test as provided in subsection (2) of this section, nurse aides shall receive a one dollar ($1.00) per hour wage increase based on the prior hourly wage of the nurse aide.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the cabinet for human resources a board for nurse aide training. The board shall be composed of seven (7) members appointed by the governor as follows: one (1) member each from the Kentucky association of health care facilities, the cabinet for human resources, the department of education, the Kentucky board of nursing, and the Kentucky home health association, one (1) person representing the interests of senior citizens and one (1) consumer. The governor shall designate a member as chairman of the board. The board shall be attached to the division of licensing and regulation which shall provide all support services. The board shall meet at least quarterly and on other occasions as may be necessary, on the call of the secretary for human resources. Members shall be compensated for necessary expenses in attending meetings.

(2) The board shall develop all forms necessary for the administration of this Act, shall approve or disapprove nurse aide training programs, and shall develop and maintain a registry of trained nurse aides. The board shall develop the curriculum to be used by training programs, which shall include a minimum of eighty (80) classroom hours and twenty (20) clinical hours and shall include, but need not be limited to, theory and clinicals in the following areas:

(a) Anatomy and physiology;

(b) Personal hygiene;

(c) Nutrition and patient feeding;

(d) Activity and exercise;

(e) Infection control;

(f) Admission, transfer and discharge;

(g) Observation, charting and reporting;

(h) Communication and interpersonal relationships; and

(i) Social, emotional and spiritual needs of the elderly.

The board shall also develop standards for the continuing education required by Section 2 of this Act.

(3) The cabinet for human resources shall promulgate regulations setting forth the curriculum developed by the board no later than January 1, 1989. Training programs may be conducted by health care facilities, academic or vocational schools or any public or private agency meeting the curriculum established by the board.

(4) Any person proposing to conduct a nurse aide training program shall apply to the board for approval prior to the operation of the program. Any applicant who is dissatisfied with the decision of the board may appeal the decision in a manner prescribed by regulation.

Section 4. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the cabinet for human resources undertakes to pay shall be designated and limited by regulations promulgated by said cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients

of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent; and

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the cabinet for human resources with respect to such bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the medical assistance program, the cabinet for human resources shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. department of labor; provided however, that medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit are not reimbursable and shall be borne by the facility, provided however, that costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the cabinet for human resources if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless such payments are for services which would otherwise be necessary to the operation of the facility and such services are required by regulations of the cabinet for human resources. Any other such payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators and other indirect payments made to the owner, unless such payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship will be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business and provided however, that an exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the cabinet for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless such recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under such a physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of such payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) Every long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986 shall not deny admission of a person to a bed certified for reimbursement under the provisions of the medical assistance program solely on the basis of the person's paying status as a medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the medical assistance program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for medicaid reimbursement. No facility may decertify a bed occupied by a medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Long-term care facilities as defined in KRS 216.510, participating in the medical assistance program shall receive full reimbursement for the cost of providing one dollar ($1.00) per hour wage increases for trained nurse aides as required by Section 2 of this Act. All reasonable costs associated with nurse aide training shall also receive full reimbursement. Reimbursement for nurse aide training costs and related wage increases shall be provided directly to participating long-term care facilities on a dollar for dollar basis, and shall be based on the proportion of total beds in the facility that are certified for medical assistance reimbursement. Long-term care facilities shall bear the cost of nurse aide training and related wage increases for nurse aide services provided to beds not certified for medical assistance reimbursement.

The Committee Substitute to **HB 536** is as follows:

HB 536, AN ACT relating to nurse aide training.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Council" means the advisory council for nurse aide training;

(2) "Nurse aide" means any unlicensed aide, assistant or orderly who performs nursing services directed at the safety, comfort, personal hygiene, or protection of patients in a skilled nursing or intermediate care facility as defined by regulations of the cabinet for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) After October 1, 1989, all nurse aides employed in skilled nursing and intermediate care facilities, as defined by regulations of the cabinet for human resources, shall complete a one hundred (100) hour training program within four (4) months of the date of the person's initial employment and shall annually complete ten (10) hours of continuing education on patient-specific procedures after one (1) full year of employment. Training programs shall be approved as provided in Section 3 of this Act.

(2) Persons employed as a nurse aide in skilled nursing and intermediate care facilities prior to July 1, 1989 shall successfully pass a competency test as prescribed by the council or shall successfully complete a training program by January 1, 1990.

(3) Upon successfully completing an approved training program or successfully passing a competency test as provided in subsection (2) of this section, nurse aides shall receive a per hour wage increase to increase the nurse aide's salary to not less than one hundred twenty-five percent (125%) of the minimum wage.

SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created an advisory council for nurse aide training. The council shall be composed of seven (7) members appointed by the governor as follows: one (1) member each from the Kentucky association of health care facilities, the cabinet for human resources, the department of education, the Kentucky board of nursing, and the Kentucky home health association, one (1) person representing the interests of senior citizens and one (1) consumer. The governor shall designate a member as chairman of the council. The council shall be attached to the Kentucky board of nursing which shall provide all support services. The council shall meet at least quarterly and on other occasions as may be necessary, on the call of the chairman of the council. Members shall be compensated for necessary expenses in attending meetings.

(2) The council shall develop all forms necessary for the administration of this Act, shall approve or disapprove nurse aide training programs, and shall develop and maintain a registry of trained nurse aides. The council shall develop the curriculum to be used by training programs, which shall include a minimum of eighty (80) classroom hours and twenty (20) clinical hours and shall include, but need not be limited to, theory and clinicals in the following areas:

(a) Anatomy and physiology;

(b) Personal hygiene;

(c) Nutrition and patient feeding;

(d) Activity and exercise;

(e) Infection control;

(f) Admission, transfer and discharge;

(g) Observation, charting and reporting;

(h) Communication and interpersonal relationships;

(i) Social, emotional and spiritual needs of the elderly; and

(j) The long-term care resident's bill of rights.

The council shall also develop standards for the continuing education required by Section 2 of this Act.

(3) The Kentucky board of nursing shall promulgate regulations setting forth the curriculum developed by the council no later than January 1, 1989. Training programs may be conducted by health care facilities, academic or vocational schools or any public or private agency meeting the curriculum established by the council.

(4) Any person proposing to conduct a nurse aide training program shall apply to the council for approval prior to the operation of the program. Any applicant who is dissatisfied with the decision of the council may appeal the decision in a manner prescribed by regulation.

Section 4. KRS 205.560 is amended to read as follows:

(1) The scope of medical care for which the cabinet for human resources undertakes to pay shall be designated and limited by regulations promulgated by said cabinet, pursuant to the provisions hereof. Within the limitations of any appropriation therefor, the provision of complete upper and lower dentures to recipients of medical assistance program benefits who have their teeth removed by a dentist resulting in the total absence of teeth shall be a mandatory class in the scope of medical care. Payment to a dentist of any such medical assistance program benefits for complete upper and lower dentures shall only be provided on the condition of a preauthorized agreement between an authorized representative of the medical assistance program and the dentist prior to the removal of such teeth. The selection of another class or other classes of medical care shall be recommended by the council to the secretary for human resources after taking into consideration, among other things, the amount of federal and state funds available, the most essential needs of recipients, and the meeting of such need on a basis insuring the greatest amount of medical care as defined in KRS 205.510 consonant with the funds available including but not limited to the following categories, except where such aid is for the purpose of obtaining an abortion:

(a) Hospital care, including drugs, and medical supplies and services during any period of actual hospitalization;

(b) Nursing home care, including medical supplies and services, and drugs during confinement therein on prescription of a physician, dentist, or podiatrist;

(c) Drugs, nursing care, medical supplies and services during the time when a recipient is not in a hospital but is under treatment and on the prescription of a physician, dentist, or podiatrist;

(d) Physician, podiatric and dental services;

(e) Optometric services for all age groups shall be limited to prescription services, services to frames and lenses, and diagnostic services provided by an optometrist, to the extent the optometrist is licensed to perform the services and to the extent the services are covered in the ophthalmologist portion of the physician's program. Eyeglasses are provided only to children under age twenty-one (21);

(f) Drugs on the prescription of a physician used to prevent the rejection of transplanted organs if the patient is indigent; and

(g) Nonprofit neighborhood health organizations or clinics where some or all of the medical services are provided by licensed registered nurses or by advanced medical students presently enrolled in a medical school accredited by the Association of American Medical Colleges and where such students or licensed registered nurses are under the direct supervision of a licensed physician who rotates his services in this supervisory capacity between two (2) or more of the nonprofit neighborhood health organizations or clinics specified herein.

(2) Payments for hospital care, nursing home care, and drugs or other medical, ophthalmic, podiatric and dental supplies shall be on bases which relate the amount of the payment to the cost of providing such services or supplies. It shall be one (1) of the functions of the council to make recommendations to the cabinet for human resources with respect to such bases for payment. In determining the rates of reimbursement for long-term care facilities participating in the medical assistance program, the cabinet for human resources shall, to the extent permitted by federal law, not allow the following items to be considered as a cost to the facility for purposes of reimbursement:

(a) Motor vehicles that are not owned by the facility, including motor vehicles that are registered or owned by the facility but used primarily by the owner or family members thereof;

(b) The cost of motor vehicles, including vans or trucks, used for facility business shall be allowed up to fifteen thousand dollars ($15,000) per facility, adjusted annually for inflation according to the increase in the consumer price index-u for the most recent twelve (12) month period, as determined by the U. S. department of labor; provided however, that medically equipped motor vehicles, vans or trucks shall be exempt from the fifteen thousand dollar ($15,000) limitation. Costs exceeding this limit are not reimbursable and shall be borne by the facility, provided however, that costs for additional motor vehicles, not to exceed a total of three (3) per facility, may be approved by the cabinet for human resources if the facility demonstrates that each additional vehicle is necessary for the operation of the facility as required by regulations of the cabinet;

(c) Salaries paid to immediate family members of the owner or administrator, or both, of a facility, to the extent that services are not actually performed and are not a necessary function as required by regulation of the cabinet for the operation of the facility. The facility shall keep a record of all work actually performed by family members;

(d) The cost of contracts, loans, or other payments made by the facility to owners, administrators or both, unless such payments are for services which would otherwise be necessary to the operation of the facility and such services are required by regulations of the cabinet for human resources. Any other such payments shall be deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources. Interest paid to the facility for loans made to a third party may be used to offset allowable interest claimed by the facility;

(e) Private club memberships for owners or administrators, travel expenses for trips outside the state for owners or administrators and other indirect payments made to the owner, unless such payments are deemed part of the owner's compensation in accordance with maximum limits established by regulations of the cabinet for human resources; and

(f) Payments made to related organizations supplying the facility with goods or services shall be limited to the actual cost of the goods or services to the related organization, unless it can be demonstrated that no relationship between the facility and the supplier exists. A relationship will be considered to exist when an individual, including brothers, sisters, father, mother, aunts, uncles and in-laws, possesses a total of five percent (5%) or more of ownership equity in the facility and the supplying business and provided however, that an exception to the relationship shall exist if fifty-one percent (51%) or more of the supplier's business activity of the type carried on with the facility is transacted with persons and organizations other than the facility and its related organizations.

(3) No vendor payment shall be made unless the class and type of medical care rendered and the cost basis therefor has first been designated by regulation.

(4) The rules and regulations of the cabinet for human resources shall require that a written statement including the required opinion of a physician shall accompany any claim for reimbursement for induced premature births. This statement shall indicate the procedures used in providing such medical services.

(5) The range of medical care benefit standards provided and the quality and quantity standards and the methods for determining cost formulae for vendor payments within each category of public assistance and other recipients shall be uniform for the entire state, and shall be designated by regulation promulgated within the limitations established by the Social Security Act and federal regulations. The amount of payments for units of services need not be uniform for the entire state but may vary from county to county and from city to city, as well as among hospitals, based on the prevailing cost of medical care in such locale and other local economic and geographic conditions, except that insofar as allowed by applicable federal law and regulation, the maximum amounts reimbursable for similar services rendered by physicians within the same specialty of medical practice shall not vary according to the physician's place of residence or place of practice, so long as the place of practice is within the boundaries of the state.

(6) Nothing in this section shall be deemed to deprive a woman of all appropriate medical care necessary to prevent her physical death.

(7) To the extent permitted by federal law, no medical assistance recipient shall be recertified as qualifying for a level of long-term care below the recipient's current level, unless such recertification includes a physical examination conducted by a physician licensed pursuant to KRS Chapter 311 or by an advance registered nurse practitioner licensed pursuant to KRS Chapter 314 and acting under such a physician's supervision.

(8) If payments made to community mental health centers, established pursuant to KRS Chapter 210, for services provided to the mentally retarded exceed the actual cost of providing the service, the balance of such payments shall be used solely for the provision of other services to the mentally retarded through community mental health centers.

(9) Every long-term care facility, as defined in KRS 216.510, providing inpatient care to recipients of medical assistance under Title XIX of the Social Security Act on July 15, 1986 shall not deny admission of a person to a bed certified for reimbursement under the provisions of the medical assistance program solely on the basis of the person's paying status as a medicaid recipient. No person shall be removed or discharged from any facility solely because they became eligible for participation in the medical assistance program, unless the facility can demonstrate the resident or the resident's responsible party was fully notified in writing that the resident was being admitted to a bed not certified for medicaid reimbursement. No facility may decertify a bed occupied by a medicaid recipient or may decertify a bed that is occupied by a resident who has made application for medical assistance.

(10) Long-term care facilities as defined in KRS 216.510, participating in the medical assistance program shall receive full reimbursement for the cost of providing per hour wage increases of not less than one hundred twenty-five percent (125%) of the minimum wage for trained nurse aides as required by Section 2 of this Act. All reasonable costs associated with nurse aide training shall also receive full reimbursement. Reimbursement for nurse aide training costs and related wage increases shall be provided directly to participating long-term care facilities on a dollar for dollar basis, and shall be based on the proportion of total beds in the facility that are certified for medical assistance reimbursement. Long-term care facilities shall bear the cost of nurse aide training and related wage increases for nurse aide services provided to beds not certified for medical assistance reimbursement.

Section 5. If funds are not appropriated to provide for Kentucky medical assistance program reimbursement of wage increases for nurse aides, long-term care facilities shall not be required to provide wage increases for nurse aides as provided in Section 2 of this Act.

HB 545. AN ACT relating to the department for medicaid services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.110 is amended to read as follows:

(1) The Kentucky certificate of need and licensure board and its associated bodies are hereby attached to the department for health services for administrative and support purposes. The Kentucky certificate of need and licensure board shall advise the council for health services, the secretary for human resources, and

the commissioner for health services on the administration and operations of the certificate of need and licensure program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky certificate of need and licensure board shall continue and remain in its present form, except that it shall not have authority to expend funds, hire employes, issue grants, or otherwise engage in the normal administrative processes of the department. This authority and responsibility shall reside exclusively with the secretary for human resources and such employes of the department designated by the secretary to hold these powers.

(2) The advisory council for medical assistance and its associated bodies are hereby attached to the department for *medicaid services* [~~social insurance~~] for administrative and support purposes. The advisory council for medical assistance shall advise the [~~council for social insurance, the~~] secretary for human resources and the commissioner for *medicaid services* [~~social insurance~~] on the administration and operations of the medical assistance program.

(3) The comprehensive health planning council and its associated bodies are hereby attached to the department for health services for administrative and support purposes. The comprehensive health planning council shall advise the council for health services, the Kentucky certificate of need and licensure board, the secretary for human resources, and the commissioner for health services on the total health service, facility, and resource needs of the Commonwealth and the allocation of resources to address those needs.

Section 2. KRS 199.5954 is amended to read as follows:

(1) A child with special needs *residing* [~~resident~~] in this state, who is the subject of an adoption assistance agreement with another state, shall be entitled to receive [~~a~~] medical assistance [~~identification~~] from this state upon the filing in the [~~office of the division for medical assistance,~~] department for social insurance, cabinet for human resources, [~~of~~] a certified copy of the adoption assistance agreement obtained from the adoption assistance state. In accordance with regulations of the *department for medicaid services,* [~~division for medical assistance, department for social insurance,~~] cabinet for human resources, the adoptive parents shall be required at least annually to show that the agreement is still in force or has been renewed.

(2) The *department for medicaid services,* [~~division of medical assistance, department for social insurance,~~] cabinet for human resources shall consider *recipients of medical assistance* [~~the holder of a medical assistance identification~~] pursuant to this section as any other *recipient of* [~~holder of a~~] medical assistance [~~identification~~] under the laws of this state and shall process and make payment on claims on account of such *recipient* [~~holder~~] in the same manner and pursuant to the same conditions and procedures as for other recipients of medical assistance.

(3) The *department for medicaid services,* [~~division for medical assistance, department for social insurance,~~] cabinet for human resources shall provide coverage and benefits for a child who is in another state and who is covered by an adoption assistance agreement made by the department for social services, cabinet for human resources for the coverage or benefits, if any, not provided by the residence state. To this end, the adoptive parents acting for the child may submit evidence of payment for services or benefit amounts not payable in the residence state and shall be reimbursed therefor. However, there shall be no reimbursement for services or benefit amounts covered under any insurance or other third party medical contract or arrangement held by the child or the adoptive parents. The cabinet for human resources shall make regulations implementing this subsection. The additional coverages and benefit amounts provided pursuant to this subsection shall be for services to the cost of which there is no federal contribution, or which, if federally aided, are not provided by the residence state. Among other things, such regulations shall include procedures to be followed in obtaining prior approvals for services in those instances where required for the assistance.

(4) The submission of any claim for payment or reimbursement for services or benefits pursuant to this section or the making of any statement in connection therewith, which claim or statement the maker knows or should know to be false, misleading or fraudulent shall be punishable as perjury and shall also be subject to a fine not to exceed ten thousand dollars ($10,000) or imprisonment for not more than two (2) years, or both such fine and imprisonment.

(5) The provisions of this section shall apply only to medical assistance for children under adoption assistance agreements from states that have entered into a compact with this state under which the other state provides medical assistance agreements made by this state. All other children entitled to medical assistance pursuant to adoption assistance agreements entered into by this state shall be eligible to receive it in accordance with the laws and procedures applicable thereto.

Section 3. KRS 205.520 is amended to read as follows:

(1) KRS 205.510 to 205.630 shall be known as the "Medical Assistance Act."

(2) The general assembly of the Commonwealth of Kentucky recognizes and declares that it is an essential function, duty and responsibility of the state government to provide medical care to its indigent citizenry; and it is the purpose of KRS 205.510 to 205.630 to provide such care.

(3) Further, it is the policy of the Commonwealth to take advantage of all federal funds that may be available for medical assistance. To qualify for federal funds the secretary for human resources may by regulation comply with any requirement that may be imposed or opportunity that may be presented by federal law. Nothing in KRS 205.510 to 205.630 is intended to limit the secretary's power in this respect.

(4) It is the intention of the general assembly to comply with the provisions of title XIX of the social security act which require that the Kentucky medical assistance program recover from third parties which have a legal liability to pay for care and services paid by the Kentucky medical assistance program.

(5) *Providers participating in the Kentucky medical assistance program shall notify the third party liability unit within the department for medicaid services when recipients of medical assistance, or their attorney acting on their behalf, request itemized statements for medical services rendered. Such notification will be used by the department for medicaid services for the determination and pursuit of third party liability and recovery.*

(6) The Kentucky medical assistance program shall be the payor of last resort and its right to recover under KRS 205.622 to 205.630 shall be superior to any right of reimbursement, subrogation, or indemnity of any liable third party.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

The cabinet for human resources, department for medicaid services shall have access to and be permitted to copy medical records of recipients of medical assistance for the purpose of determining if services for which the program was billed were rendered and if services were medically necessary, medically appropriate, and properly documented.

The Committee Amendment No. 1 to **HB 545** is as follows:

Amend printed copy of **HB 545** on page 6, line 15,

By adding after the word "*recovery.*" the following new sentence: "*The secretary of the cabinet for human resources shall promulgate administrative regulations related to the notification process and procedures necessary to carry out this requirement.*"

and on page 7, line 3, by adding after the word "*documented.*" the following new sentence: "*In carrying out this section, representatives of the cabinet for human resources shall not unnecessarily or unduly disrupt the normal operation of the medical provider's office in accessing or copying medical records of program recipients, and shall coordinate their activities so as to consider the medical provider's normal hours of operation.*"

HB 555, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.155 is amended to read as follows:

(1) The administrative officer or other person in charge of each institution caring for infants twenty-eight (28) days or less of age and the person required in pursuance of the provisions of KRS 213.050(1) shall register the birth of a child, and cause to have administered to every such infant or child in its or his care tests for inborn errors of metabolism, including but not limited to phenylketonuria (PKU), in accordance with rules or regulations prescribed by the secretary of the cabinet for human resources. Testing, [~~and the~~] recording, *and reporting* of the results of such tests shall be performed at such times and in such manner as may be prescribed by the secretary of the cabinet for human resources or his designee[~~; provided that,~~

~~positive results of tests for inborn errors of metabolism as set forth in regulation by the secretary shall be reported to the department for health services no later than two (2) working days after the date of testing~~]. The secretary of the cabinet for human resources shall by regulation establish and collect fees to cover the cost of analyzing the testing samples for inborn errors of metabolism[~~; provided that if such tests for inborn errors of metabolism are performed by a laboratory other than the institution caring for the infant, the two (2) working days requirement shall be considered to be met if the specimen is submitted to the laboratory for testing within two (2) working days of the birth of the child~~].

(2) Nothing in this section shall be construed to require the testing of any child whose parents are members of a nationally recognized and established church or religious denomination, the teachings of which are opposed to medical tests, and who object in writing to the testing of such child on that ground.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

The secretary for human resources may by regulation require licensees of radioactive materials to provide an adequate surety or other financial arrangement in such amount as the secretary deems reasonably appropriate to cover potential clean-up costs in the event of abandonment, insolvency, or other inability of the licensee to meet the requirements of the secretary regarding a radioactive material accident or other public health hazard created by the presence of radioactive material at a site occupied by the licensee or formerly under its possession, ownership, or control. Acceptable sureties would include bonds issued by fidelity or surety companies authorized or eligible to do business in Kentucky, cash deposits, certificates of deposit, deposits of government securities, irrevocable letters or lines of credit, trust funds, escrow accounts or such other types of arrangements, but not including any arrangement which essentially constitutes self insurance. The secretary shall be the obligee of the surety and the proceeds of the surety shall be used by the secretary for defraying the cost of cleaning up and decontaminating the area of property involved. Failure to comply with any regulation promulgated to carry out this section by any licensee shall result in automatic revocation of such license by operation by law.

Section 3. KRS 211.844 is amended to read as follows:

(1) The cabinet for human resources shall provide by regulation for the registration and licensing of the possession or use of any source of ionizing or electronic product radiation and the handling and disposal of radioactive waste. *The cabinet may prescribe specific conditions or means for the disposal and volume and source reduction of radioactive materials including radioactive waste.* Such regulations shall include but need not be limited to specification of the form of applications for registration and licenses, the qualifications therefor, grounds for revocation and such other matters as may be necessary to carry out the intent of KRS 211.842 to 211.852 and to protect the public from unnecessary radiation exposure.

(2) All rules and regulations adopted prior to June 17, 1978, by the cabinet for human resources and on file with the legislative research commission shall continue in full force and effect unless subsequently amended or repealed pursuant to the provisions of KRS 211.842 to 211.852.

Section 4. KRS 158.036 Tuberculosis test requirements — Exemption, is repealed.

HB 671, AN ACT relating to licensure and permit fees of the cabinet for human resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.180 is amended to read as follows:

The cabinet shall enforce the rules and regulations adopted by the secretary of the cabinet for human resources for the regulation and control of the matters set out below and shall formulate, promote, establish and execute policies, plans and programs relating to all matters of public health, including but not limited to the following matters:

(1) Detection, prevention, and control of communicable diseases, chronic and degenerative diseases, dental diseases and abnormalities, occupational diseases and health hazards peculiar to industry, home accidents and health hazards, animal diseases which are transmissible to man, and such other diseases and health hazards as may be controlled;

(2) The control of insects, rodents and other vectors of disease; the safe handling of food and food products;

the safety of cosmetics; the control of narcotics, barbiturates and other drugs as provided by law; the sanitation of schools, industrial establishments and other public and semipublic buildings; the sanitation of state and county fairs and other similar public gatherings; the sanitation of public and semipublic recreational areas; the sanitation of public rest rooms, trailer courts, hotels, tourist courts, and other establishments furnishing public sleeping accommodations; the review, approval or disapproval of plans for construction, modification or extension of equipment related to food-handling in food-handling establishments; the licensure of hospitals; and the control of such other factors, not assigned by law to another agency, as may be necessary to insure a safe and sanitary environment;

(3) The construction, installation and alteration of any on-site sewage disposal system except for a system with a surface discharge;

(4) Protection and improvement of the health of expectant mothers, infants, preschool and school age children;

(5) The practice of midwifery, including the issuance of permits to and supervision of women who practice midwifery;

(6) Protection and improvement of the health of the people through better nutrition;

(7) The secretary shall have authority to establish by regulation a schedule of reasonable fees[~~, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement,~~] to cover the costs of inspections of manufacturers, retailers and distributors of consumer products as defined in the Federal Consumer Product Safety Act (Title 15 U.S.C. Sec. 2051 et seq.; 86 Stat. 1207 et seq. or amendments thereto), and of youth camps for the purpose of determining compliance with the provisions of this section and the regulations adopted by the secretary pursuant thereto. Fees collected by the secretary shall be deposited in the state treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. The balance of said account shall lapse to the general fund at the end of each biennium.

Section 2. KRS 211.976 is amended to read as follows:

Each person engaged in such business for the purposes aforesaid shall file an application directly with the commissioner with such information as he may require. The application shall state the nature of the business, the post office address of the applicant, and the post office address at or from which the business is to be continued. If the applicant shall operate a branch or other places of business, the application shall so state. The application shall state any additional information as the commissioner may require. The application to engage in the business as herein defined shall be accompanied by a *reasonable* license fee *established by administrative regulation* [~~of twenty-five dollars ($25),~~] payable to the department for health services. If the commissioner, after such investigation as he deems necessary, is satisfied that the applicant has the qualifications, experience, reputation and equipment to perform the services in a satisfactory manner and not detrimental to the environment or to public health, he shall issue or cause to be issued a license for the said business. The application for such license shall be made to the commissioner prior to March 1 of each year, and shall be accompanied by a surety bond tendered by a company registered in the Commonwealth of Kentucky, to indemnify persons for whom service and maintenance work is performed, if faulty; or with such sureties, form and sufficiency as shall be approved by the commissioner. Such bonds shall be in the amount of one thousand dollars ($1,000) for residents of the state of Kentucky and five thousand dollars ($5,000) for nonresidents. The commissioner shall be the obligee, and the bond shall be for the benefit and purpose to protect all persons damaged by faulty workmanship in the servicing or maintaining of septic tanks, cesspools or seepage pits, and shall guarantee the appearance of the licensee to answer any summons within thirty (30) days of notice to the bonding company of the issuance of such summons. Such bonds shall be conditioned upon the performance of the services in a workmanlike and hygienic manner.

Section 3. KRS 211.978 is amended to read as follows:

All trucks or other vehicles used to transport or carry wastes from septic tanks, cesspools or seepage pits shall carry a license by the secretary for inspection by his representative or any law enforcement agent. The application for such vehicle license shall be made prior to March 1 of each year, and shall state the make, model and year of such vehicle, as well as the capacity of the tank used in the removal of said wastes from septic tanks, cesspools and seepage pits, and also such other information as the secretary shall require. Each application shall be accompanied by a *reasonable* license fee *established by administrative regulation*

[~~of ten dollars ($10.00)~~] for each vehicle sought to be licensed, payable to the treasurer of the Commonwealth of Kentucky. If the secretary, after such investigation as he deems necessary, is satisfied that such truck or vehicle and equipment is proper and hygienic for said purpose, he shall issue or cause to be issued a license for the use of said vehicle for said purpose. This license is not transferable from one vehicle to another, and all licenses shall expire on the last day of February of each year. In addition to the vehicle license, which shall be carried on the vehicle at all times, there shall be painted on both sides of said vehicle in letters not less than two inches high the words "K.B.H.S. licensed vehicle," and said words shall be followed with vehicle license number.

Section 4. KRS 217.125 is amended to read as follows:

(1) The authority to promulgate regulations for the efficient administration and enforcement of KRS 217.005 to 217.215 is hereby vested in the secretary. The secretary may make the regulations promulgated under KRS 217.005 to 217.215 consistent with those promulgated under the federal act and the fair packaging and labeling act. Regulations promulgated may require permits to operate and include provisions for regulating the issuance, suspension, and reinstatement of permits.

(2) The secretary shall have authority to establish by regulation a schedule of reasonable fees[~~, not to exceed twenty dollars ($20) per inspector hour plus travel costs pursuant to state regulations for travel reimbursement,~~] to cover the costs of inspections of food manufacturing plants, food storage warehouses, retail food markets, salvage distributors and salvage processing plants for the purpose of determining compliance with the requirements of KRS 217.025 to 217.390. Fees collected by the secretary shall be deposited in the state treasury and credited to a revolving fund account for use by the cabinet in carrying out the provisions of KRS 217.025 to 217.390 and the regulations adopted by the secretary pursuant thereto. The balance of said account shall lapse to the general fund at the end of each biennium.

Section 5. KRS 217.811 is amended to read as follows:

Each application for permit to operate a vending machine company shall be accompanied by a *reasonable* fee [~~of ten dollars ($10.00)~~] for each vending machine commissary plus a *reasonable* fee for the total number of vending machines operated by the applicant. *The cabinet shall establish by administrative regulation the schedule of reasonable fees.* [~~, as follows:~~

~~1 - 25 machines~~	~~fee $ 50.00~~
~~26 - 50 machines~~	~~fee $ 75.00~~
~~51 - 100 machines~~	~~fee $100.00~~
~~101 - 150 machines~~	~~fee $125.00~~
~~151 and over machines~~	~~fee $200.00~~]

Provided, that vending machines dispensing only bottled or canned soft drinks; prepackaged non-potentially hazardous food; chewing gum, nuts and/or candies shall be exempt from the permit and fee requirements of KRS 217.808 to 217.812.

Section 6. KRS 219.021 is amended to read as follows:

(1) No person shall operate a hotel or food service establishment without first having obtained a permit to operate from the cabinet. An application for a permit to operate any hotel or food service establishment shall be made to the cabinet upon forms provided by it and shall contain such information as the cabinet may reasonably require. *The cabinet shall establish by administrative regulation a reasonable schedule of fees.*

(2) Except as otherwise provided in subsection (4) of this section, each application for an annual permit to operate a hotel or food service establishment shall be accompanied by a *reasonable* fee *established by administrative regulation* [~~of twenty-five dollars ($25)~~]. Applications for permits to operate temporary food service establishments shall be accompanied by a *reasonable* fee *established by administrative regulation* [~~of ten dollars ($10)~~].

(3) Upon receipt of an application for a permit to operate a hotel or food service establishment accompanied by the required fee, the cabinet shall issue a permit if such establishment meets the requirements of KRS 219.011 to 219.081 and rules and regulations adopted by the cabinet. Provided, however, that food service establishments and hotels holding a valid and effective permit on January 1, 1973, even though not fully meeting the construction requirements of KRS 219.011 to 219.081 and the regulations adopted pursuant thereto, may continue to be eligible for permit renewal if in good repair and capable of being maintained in a safe and sanitary manner; and further provided there is no change in ownership of the establishment.

(4) Private, parochial, and public school cafeterias or lunchroom facilities through the twelfth (12th) grade and all facilities operated by the cabinet for human resources or corrections cabinet shall be exempt from the payment of fees, but shall comply with all other provisions of KRS 219.011 to 219.081 and the state food service code.

(5) Each annual permit to operate a hotel or food service establishment unless previously suspended or revoked shall expire on December 31, following its date of issuance, and be renewable annually upon application accompanied by the required fee [~~of twenty-five dollars ($25)~~], except as otherwise provided in subsection (4) of this section and provided the establishment is in compliance with KRS 219.011 to 219.081 and rules and regulations of the cabinet.

(6) Each permit to operate a hotel or food service establishment shall be issued only for the premises and person named in the application and shall not be transferable. Permits issued shall be posted in a conspicuous place in the establishment.

Section 7. KRS 219.041 is amended to read as follows:

(1) The secretary shall adopt rules and regulations for the effective administration and enforcement of KRS 219.011 to 219.081.

(2) The secretary shall adopt a state food service code which shall include, among other things, provisions for regulating the issuance, suspension, and revocation of permits to operate; submission of plans for construction and equipment layout including plumbing, lighting, ventilation, water supply, sewage disposal and other facilities; food supply source and protection; health, disease control and cleanliness of personnel; design, construction, installation and cleanliness of equipment and utensils; toilet and hand washing facilities; solid waste disposal and vermin control; and such other matters deemed necessary to insure a safe and sanitary operation of a food service establishment. Standards for construction, plumbing, lighting and ventilation of fixed food service establishments shall be effective only if they are approved by the board of housing, buildings, and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a fixed food service establishment shall be conducted by the department of housing, buildings and construction.

(3) The secretary shall adopt a state hotel code which shall include, among other things, requirements for the issuance, suspension and revocation of permits to operate; submission of plans for construction and equipment layout; plumbing; lighting; ventilation; water supply; sewage disposal; sanitary standards for operation; and such other matters deemed necessary to insure a safe and sanitary operation of a hotel. Standards for construction, plumbing, lighting and ventilation shall be effective only if they are approved by the board of housing, buildings and construction and are included in the uniform state building code, or if they conform to the state plumbing code in the case of plumbing fixtures. Any review of plans for construction, plumbing, lighting and ventilation required before construction of a hotel shall be conducted by the department of housing, buildings and construction.

(4) The secretary may, by regulation, adopt a schedule of reasonable fees[~~, none of which shall exceed one hundred dollars ($100),~~] to cover the costs of inspection activities of the cabinet under the provisions of KRS 219.011 to 219.081.

Section 8. KRS 219.340 is amended to read as follows:

(1) Upon receipt of an application for a permit to operate, accompanied by *the appropriate* [~~a~~] permit fee, [~~assessed according to the following schedule:~~

~~Park with 10 spaces or less~~ . . . . ~~fee $50.00~~

~~Park with more than 10 spaces~~ . . . . ~~fee $75.00~~]

the cabinet shall issue a permit, provided the park meets the standards and requirements of KRS 219.310 to 219.410 and the regulations adopted by the secretary. *The cabinet shall establish by administrative regulation a reasonable schedule of fees.*

(2) Each permit to operate, unless sooner suspended or revoked, shall expire on June 30 following its issuance, and be renewable annually, upon application and payment of *the appropriate* [~~a~~] renewal fee *established by administrative regulation* [~~of fifty dollars ($50.00) for a park with 10 spaces or less or a renewal fee of seventy-five dollars ($75.00) for a park with more than 10 spaces,~~] provided the park is maintained and operated in compliance with KRS 219.310 to 219.410 and the regulations adopted by the secretary.

(3) Each permit to operate shall be issued only for the person and premises, including number of spaces, named in the application and shall not be transferable.

(4) The person holding an operating permit shall post it conspicuously within the park or have it readily available for examination upon request by agents of the cabinet or prospective park occupants.

Section 9. KRS 219.350 is amended to read as follows:

No park shall be constructed or altered without a permit as provided in KRS 219.310 to 219.410. An application for a permit to construct or alter a park shall be made to the cabinet upon forms provided by it. The application shall include plans for construction or alteration of the park and shall contain such information in regard to the proposed park as the cabinet may reasonably require, which may include affirmative evidence of ability to comply with requirements of KRS 219.310 to 219.410 and regulations adopted by the secretary. All plans for the construction, installation or alteration of buildings shall be forwarded by the cabinet to the department of housing, buildings and construction. Only the department of housing, buildings and construction shall review such plans for conformance with the uniform state building code. The department of housing, buildings and construction shall expedite the review of such plans and return them to the cabinet for human resources for completion of the application process. Each application for a permit to construct or alter a park shall be accompanied by a *reasonable* permit fee *established by administrative regulation* [~~of twenty-five dollars ($25.00)~~]. Each permit to construct shall be issued only for the person and premises, including the number of spaces named in the application and shall not be transferable. Each permit to construct shall expire one (1) year from date of issuance.

Section 10. KRS 221.020 is amended to read as follows:

(1) Each frozen food locker plant or branch frozen food locker plant operated in this state shall be licensed under and subject to the provisions of KRS 221.010 to 221.100. *The cabinet shall establish by administrative regulation a reasonable schedule of fees.*

(2) There shall be paid to the secretary with each application for a refrigerated locker license or for renewal of such license *a reasonable* [~~an~~] annual license fee *established by administrative regulation* [~~of ten dollars ($10.00)~~] and the funds therefrom shall be disbursed by the secretary for the enforcement of KRS 221.010 to 221.100.

(3) Each such license shall expire on December 31 following its date of issue, unless sooner revoked for cause. Renewal may be obtained annually by surrendering to the secretary the old license certificate and paying the required annual license fee. Such license fee shall not be transferable to any person nor be applicable to any location other than that for which originally issued.

Section 11. KRS 223.030 is amended to read as follows:

The cabinet upon application and payment of a *reasonable* [~~ten-dollar ($10.00)~~] examination fee *as established by administrative regulation* shall certify as a registered sanitarian any person who meets the qualifications prescribed by the secretary and who has:

(1) Passed a merit system or civil service examination given by the state or any county or municipality qualifying the applicant as a sanitarian;

(2) Passed the examination conducted or caused to be conducted by the examining committee; and

(3) Completed at least two (2) years of active service as a sanitarian with an approved public health agency.

Section 12. KRS 223.040 is amended to read as follows:

Persons actively engaged in public health sanitation work for a recognized and approved public health agency in this state for a period of not less than two (2) years prior to July 1, 1960, shall, upon furnishing adequate proof thereof to the cabinet and upon payment of a *reasonable* fee *established by administrative regulation* [~~of five dollars ($5)~~], be entitled to be registered as a registered sanitarian without examination. *The cabinet shall establish by administrative regulation a reasonable schedule of fees.*

Section 13. KRS 223.050 is amended to read as follows:

The prescribed [~~A~~] fee [~~of ten dollars ($10)~~] shall accompany the application for examination. All registration certificates issued under the provisions of this chapter shall expire on June 30 following the date of issue, unless renewed by the payment of a *reasonable* [~~five dollar ($5)~~] annual renewal fee *established by administrative regulation.* All fees collected under the provisions of this chapter shall be paid into the state treasury and credited to a trust and agency fund to be used by the cabinet in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth. *The cabinet shall establish by administrative regulation a reasonable schedule of fees.*

Section 14. KRS 199.640 is amended to read as follows:

(1) No person, association or organization shall conduct, operate or maintain any child-caring facility or child-placing agency without having a license to do so issued by the cabinet.

(2) Licenses issued to the agency or facility shall be valid for a period of one (1) year from date of issue unless revoked by the cabinet provided that each licensed facility or agency shall be visited and inspected by a person authorized by the cabinet at least once each year and a complete report of such visit or inspection be filed with the cabinet. Each license issued shall specify the type of care or service the licensee is authorized to perform. *The cabinet shall establish by administrative regulation a reasonable schedule of fees for initial and renewal licenses* [~~Each initial application for a license shall be accompanied by a fee of one hundred dollars ($100) and shall, except for provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of fifty dollars ($50.00)~~]. The fees collected by the secretary shall be deposited in the state treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this section. [~~The balance of said account shall lapse to the general fund at the end of each biennium.~~]

(3) The secretary may adopt regulations establishing standards of care and service for child-caring facilities and child-placing agencies relating to the sanitary and hygienic conditions, the accommodations available for each child, the diet provided, the safety of the child from fire and other accidents and hazards, and such other factors as may be necessary to promote the welfare of children cared for or placed by such agencies and facilities.

(4) Each agency or facility licensed under this section shall keep a record containing:

(a) The names, ages, present and former residences of all children received;

(b) The names, residence and occupation so far as is known, of the parents;

(c) The dates of the reception, placing out for adoption or foster care, together with the names, occupation and residence of the persons with whom the child is placed;

(d) The date and cause of termination of its custody of each child; and

(e) A brief history of each child until he shall have reached the age of eighteen (18) years or shall have been adopted or discharged according to the law.

(5) Parents are received or boarded in a family rehabilitation home pursuant to a written agreement between home and parent.

(6) All records regarding children or facts learned about children and their parents and relatives by any licensed agency or facility shall be deemed confidential in the same manner and subject to the same provisions as similar records of the cabinet. The information thus obtained shall not be published or be open for public inspection except to authorized employes of the cabinet or of such licensed agency or facility in performance of their duties.

Section 15. KRS 199.896 is amended to read as follows:

(1) No person. association or organization shall conduct, operate, maintain or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may adopt regulations relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date. *The cabinet shall establish by administrative regulation a reasonable schedule of fees for different types of initial and renewal licenses.*

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met.

(6) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the state treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. Such funds collected are hereby appropriated for the use of the cabinet. [~~The balance of said special fund shall lapse to the general fund at the end of each biennium.~~]

(7) Any advertisement for child care services shall include the address of where the service is being provided.

(8) All inspections of licensed and unlicensed day care centers and homes by the cabinet for human resources shall be unannounced.

Section 16. KRS 333.070 is amended to read as follows:

A medical laboratory license shall be valid for the calendar year for which it is issued. *The cabinet shall establish by administrative regulation a reasonable schedule of fees for initial and renewal licenses* [~~The initial application fee for a license shall be one hundred dollars ($100). The license shall be renewable upon expiration and reapplication accompanied by the annual renewal fee to be paid according to the reasonable fee schedule established by regulations of the secretary; provided, however, that no fee shall exceed fifty dollars ($50.00)~~]. Fees collected by the secretary shall be deposited in the state treasury and credited to a revolving fund account for the purpose of carrying out the provisions of this chapter. [~~The balance of said account shall lapse to the general fund at the end of each biennium.~~]

Section 17. KRS 340.030 is amended to read as follows:

(1) An employment agency permit shall be granted only upon written application made upon forms furnished by the cabinet. *The cabinet shall establish by administrative regulation a reasonable schedule of fees for initial and renewal permits* [~~The application shall be accompanied by a permit fee of two hundred fifty dollars ($250) payable to the cabinet. Upon renewal, the annual license fee shall be one hundred and~~

~~twenty-five dollars ($125)~~].

(2) The cabinet may refuse to issue a permit to an applicant, or may cancel an existing permit, if, in the judgment of the secretary, the applicant or holder, or its officials or members are not of good moral character or have violated any of the laws of this or any other state or of the United States that the secretary believes would render them improper persons for a permit.

(3) If the cabinet refuses to grant a permit, it shall return the permit fee to the applicant, and shall state the various reasons for refusal.

The Committee Amendment No. 1 to **HB 671** is as follows:

Amend printed copy of **HB 671** on page 8, line 1, by deleting the words: "*The cabinet shall establish by administrative*" and inserting in lieu thereof the following: "*The secretary shall prepare and submit a recommended fee schedule for programs where such fees are authorized by statute and established by administrative regulation under KRS Chapter 13A. The fee schedule shall be adopted as provided under KRS 48.300. The recommended fee schedule shall be submitted in accordance with KRS 48.050.*"

and on page 8 by deleting line 2 in its entirety

The Committee Amendment No. 2 to **HB 671** is as follows:

Amend printed copy of **HB 671** on page 19, line 6, by inserting a bracket before the word "and"

and on page 19, line 7, by inserting a bracket after the phrase "fifty dollars ($50)" and by placing strikethroughs through the bracketed words on lines 6 and 7

and on page 19, line 9, by inserting a bracket before the word "when"

and on page 19, line 10, by inserting a bracket after the phrase "twenty-five dollars ($25)" and by placing strikethroughs through the bracketed words on lines 9 and 10

The Committee on State Government reported **HB 7** with Committee Substitute attached thereto, **HB 244** with Committee Substitute attached thereto, **HB 371** with Committee Substitute attached thereto, **HB 488**, **HB 492**, **HB 517**, **HB 557**, **HB 609**, **HB 636** with Committee Substitute and Committee Amendment attached thereto, **HB 658** with Committee Amendment attached thereto, **HB 703** with Committee Substitute attached thereto, **HB 719** with Committee Amendments attached thereto, **HB 747** with Committee Amendment attached thereto, **HB 761**, **HB 855** with Committee Amendment attached thereto, and **HCR 114** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 7, AN ACT relating to official state songs.

WHEREAS, native Kentuckian Bill Monroe has greatly honored the Commonwealth in creating the unique blend of mountain harmonies and southern blues that has become known as "bluegrass music"; and

WHEREAS, "Blue Moon of Kentucky," loved by an audience that extends far beyond the realm of bluegrass enthusiasts, epitomizes Bill Monroe's description of his music as "played from my heart to your heart"; and

WHEREAS, it is fitting that a Kentucky song from the present century join Stephen Foster's nineteenth century ballad as an official song of the Commonwealth, reflecting the creative diversity within our borders;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.100 is amended to read as follows:

The *songs* [~~song~~], "My Old Kentucky Home," by Stephen Collins Foster *and "Blue Moon of Kentucky" by Bill Monroe, are* [~~, is~~] the official state *songs* [~~song~~] of Kentucky.

The Committee Substitute to **HB 7** is as follows:

HB 7. AN ACT relating to state songs.

WHEREAS, native Kentuckian Bill Monroe has greatly honored the Commonwealth in creating the unique blend of mountain harmonies and southern blues that has become known as "bluegrass music"; and

WHEREAS, "Blue Moon of Kentucky," loved by an audience that extends far beyond the realm of bluegrass enthusiasts, epitomizes Bill Monroe's description of his music as "played from my heart to your heart";

WHEREAS, it is fitting that a Kentucky song reflecting the bluegrass style be honored by the Commonwealth;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 2.100 is amended to read as follows:

(1) The song, "My Old Kentucky Home," by Stephen Collins Foster, is the official state song of Kentucky.

(2) The song, "Blue Moon of Kentucky" by Bill Monroe, is the bluegrass song of Kentucky.

HB 244, AN ACT relating to bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the capital projects and bond oversight committee for review and approval. The turnpike authority and the school facilities construction commission shall be exempt from this review.

(2) The capital projects and bond oversight committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the appropriations act.

(3) If the committee disapproves a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the disapproved project shall be referred to the secretary of the finance and administration cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the secretary of the finance and administration cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) "Economic development bonds" means the bond program authorized by the general assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the commerce cabinet. The secretary of commerce shall adopt regulations for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement; and

(c) Degree and conditions of project payback.

(3) Prior to submission of economic development bond projects for approval, if the public or private organization that may benefit from the proceeds of the bond issue is known, a written commitment from that organization is required, outlining the projected job creation or retention and a minimum investment by the organization in the project. If the organization does not honor the commitment, it shall be responsible for the remaining debt service on the economic development bonds used for the project.

(4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. Before any economic development bonds are issued, the proposed bond issue shall be approved by the secretary of the finance and administration cabinet, and the state property and buildings commission, under the provisions of KRS 56.440 and 56.720.

(5) Following the approval by the secretary of the finance and administration cabinet and the state property and buildings commission, the project shall be presented by the commerce cabinet with supporting documentation at the next regularly scheduled meeting of the capital projects and bond oversight committee for review and approval, pursuant to Section 1 of this Act.

(6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(7) The commerce cabinet shall submit an annual report to the capital projects and bond oversight committee showing the bonds issued, the amounts paid back, and the balance still owing.

Section 3. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.750 to 45.800:

(a) "Committee" means the capital *projects and bond* [~~construction and equipment purchase~~] oversight committee.

(b) "Capital *projects* [~~construction~~]" includes:

1. The construction, reconstruction and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;

3. The acquisition of land for the construction or reconstruction of a building or for the installation of utility services;

4. The purchase and installation initially of equipment, facilities and furnishings of a permanent nature for buildings;

5. The purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable; and

6. Major items of equipment, to include aircraft, estimated to cost fifty thousand dollars ($50,000) or more.

(c) "Capital *projects* [~~construction project~~]" means any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more, and "major item of movable equipment," estimated to cost fifty thousand dollars ($50,000) or more.

(d) "Purchase of equipment" shall include, but not be limited to, equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "Emergency repair, maintenance or replacement project" means the maintenance, repair or reconstruction of a capital construction project or the maintenance, repair or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster; or

2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(f) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(2) KRS 45.750 to 45.800 shall apply to capital [~~construction~~] projects and *bonds* [~~the purchase of major items of equipment~~] for use by the state government or one of its departments or agencies, including institutions of higher education, but excluding capital construction projects or *bonds* [~~equipment purchases~~] used directly in *or for* the construction or maintenance of roads, including but not limited to bulldozers, graders, earth movers, and real estate purchased for rights-of-way. KRS 45.750 to 45.800 shall not apply to political subdivisions.

The Committee Substitute to **HB 244** is as follows:

HB 244, AN ACT relating to bonds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) Any state agency authorized to issue bonds shall, prior to the issuance of any bonds, submit the proposed bond issue to the capital projects and bond oversight committee for review and recommendation. The turnpike authority, the school facilities construction commission, and the Kentucky development finance authority shall be exempt from this review.

(2) The capital projects and bond oversight committee shall require documentation of the following:

(a) That the proposed bond project or subsequent use of bond funds is in compliance with all applicable regulatory or statutory provisions;

(b) That the debt service fund source has been identified and approved by all applicable authorities as provided by statute; and

(c) That the bond issue, if supported by appropriation, is consistent with the appropriations act.

(3) If the committee does not recommend a proposed project for the use of bond proceeds as provided in subsection (1) of this section, the project shall be referred to the secretary of the finance and administration cabinet, who shall:

(a) Revise the project in consideration of the committee's objections; or

(b) Cancel the project or the use of bond proceeds for the project; or

(c) Determine to proceed with the project.

(4) The decision of the secretary of the finance and administration cabinet with respect to the project or the bond funding for the project shall be transmitted to the committee within thirty (30) days.

(5) Any changes in the bond project after review and approval by the committee shall be transmitted to the next regularly scheduled meeting of the committee.

(6) The bonding authorities designated in subsection (1) of this section shall submit an annual report to the committee at the end of each fiscal year, which shall include:

(a) The principal amount of the bonds outstanding at the beginning of the fiscal year;

(b) The amount of any bonds issued during the fiscal year;

(c) All payments of principal, interest, trustee fees, and any other fees, during the fiscal year; and

(d) The principal balance of bonds outstanding at the end of the fiscal year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) "Economic development bonds" means the bond program authorized by the general assembly for the purpose of promoting economic development within the state.

(2) The economic development bond program shall be administered by the secretary of the commerce cabinet. The secretary of commerce shall adopt regulations for project selection criteria. The project selection criteria shall include, but not be limited to, the following:

(a) Potential job creation or job retention;

(b) Degree of public or private and local involvement; and

(c) Degree and conditions of project payback.

(3) Prior to submission of an economic development bond project to the capital projects and bond committee, the secretary of commerce shall receive a written commitment from the public or private organization which has requested state bonds outlining projected job creation and retention, an investment breakdown and overall project description. This shall be submitted by the secretary to the committee. Subsequently, the secretary of commerce shall execute a written agreement with the public or private organizations involved expressing in detail the respective obligations on the parties, which shall thereafter be automatically forwarded to the committee for its records.

(4) Projects of state agencies as defined in KRS 42.005 shall not be eligible for funding from the economic development bond program, unless expressly provided in an appropriations act. The secretary of commerce shall consult with the secretary of the finance and administration cabinet on the terms and conditions relating to the use of state economic development bonds before any commitment is made on any project to any public or private organization. Before any economic development bonds are issued, the proposed bond issue shall be approved by the secretary of the finance and administration cabinet, and the state property and buildings commission, under the provisions of KRS 56.440 and 56.720.

(5) Following the approval by the secretary of the finance and administration cabinet and the state property and buildings commission, the project shall be presented by the commerce cabinet with supporting documentation at the next regularly scheduled meeting of the capital projects and bond oversight committee for review and approval, pursuant to Section 1 of this Act.

(6) Notwithstanding the provisions of KRS 56.872(3), the amount of economic development bonds issued during any biennium shall not exceed the amount stated in the biennial budget.

(7) The commerce cabinet shall submit an annual report to the capital projects and bond oversight committee showing the bonds issued, the amounts paid back, and the balance still owing.

Section 3. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.750 to 45.800:

(a) "Committee" means the capital *projects and bond* [~~construction and equipment purchase~~] oversight committee.

(b) "Capital *projects* [~~construction~~]" includes:

1. The construction, reconstruction and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;

3. The acquisition of land for the construction or reconstruction of a building or for the installation of utility services;

4. The purchase and installation initially of equipment, facilities and furnishings of a permanent nature for buildings;

5. The purchase and installation initially of movable equipment, furnishings and appurtenances necessary to make a building operable; and

6. Major items of equipment, to include aircraft, estimated to cost fifty thousand dollars ($50,000) or more.

(c) "Capital *projects* [~~construction project~~]" means any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost two hundred thousand dollars ($200,000) or more, and "major item of movable equipment," estimated to cost fifty thousand dollars ($50,000) or more.

(d) "Purchase of equipment" shall include, but not be limited to, equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "Emergency repair, maintenance or replacement project" means the maintenance, repair or reconstruction of a capital construction project or the maintenance, repair or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster; or

2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or

3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(f) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(2) KRS 45.750 to 45.800 shall apply to capital [~~construction~~] projects and *bonds* [~~the purchase of major items of equipment~~] for use by the state government or one of its departments or agencies, including institutions of higher education, but excluding capital construction projects or *bonds* [~~equipment purchases~~] used directly in *or for* the construction or maintenance of roads, including but not limited to bulldozers, graders, earth movers, and real estate purchased for rights-of-way. KRS 45.750 to 45.800 shall not apply to political subdivisions.

HB 371, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the department of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination

of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded. *Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;*

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period, multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the department of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system, a member of the county employes retirement system or a member of the Kentucky employes retirement system covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time; [~~and~~]

(24) "Hazardous disability" as used in KRS 16.510 to 16.652 means such disability as results in an employe's total incapacity to continue as an employe in a hazardous position, but such employe is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweeky, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee; and

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky state police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers.

(2) No person who is age thirty-one (31) or over shall be eligible to become an employe of the Kentucky state police.

(3) Membership in the system shall not include those employes who are simultaneously contributing to another *state administered* [~~public~~] retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 3. KRS 16.537 is amended to read as follows:

(1) An employe participating in the state police retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the county employes retirement system, Kentucky employes retirement system, teachers' retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 16.545(4), by the employer.

(2) *Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.*

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4)[~~(3)~~] No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 4. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made

except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name *"Kentucky retirement systems"* [~~"state police retirement system of the Commonwealth of Kentucky"~~] or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 5. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615; [~~and~~]

(26) Service credit, armed forces, as provided by KRS 61.555*; and*

(27) Reinstated employe, contributions on creditable compensation, as provided for by KRS 61.569.

Section 6. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The general assembly and employes of the general assembly including the employes of the legislative research commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employes on the staff of the governor, the lieutenant governor, the office of the secretary of the governor's cabinet, and the office of program administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employes of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employes for employment, dismissal and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g) and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employes of such institutions; officers and employes of the teachers' retirement system *and the Kentucky retirement systems*; and officers, teachers, and employes of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the general assembly, or a committee thereof, or by authority of the governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45.700 to 45.720;

(p) Seasonal, temporary, and emergency employes;

(q) Federally funded time-limited employes;

(r) Officers and members of the state militia;

(s) State police troopers and sworn officers in the department of state police, justice cabinet;

(t) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(u) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(v) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(w) County and commonwealth's attorneys and their respective appointees;

(x) Chief district engineers and the state highway engineer.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing herein is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employes within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing herein shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided herein.

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives, or any other entity, the employes of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except that for members of the general assembly it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that

part of the compensation not paid in money. *Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code*;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the general assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; nineteen hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions *that average one hundred (100) or more hours per month, including all positions* as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(8) except the employe shall pay a single payment of fifty percent (50%) of the total cost of such service with no cost to the employer, and such payment shall not be picked up by the employer.

A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system; [~~and~~]

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system*;*

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust or trustee; and

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 8. KRS 61.515 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for employes to be known as the "Kentucky employes retirement system" by and in which name it shall, pursuant to the provisions of KRS 61.510 to *61.705* [~~61.692~~], transact all of its business and shall have the powers and privileges of a corporation; and

(2) A state fund, called the "Kentucky employes retirement fund," which shall consist of all the assets of the system as set forth in KRS 61.570 to 61.585.

Section 9. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating department after the date such department first participates in the system;

(2) All persons who are employes of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employes of any credit union whose membership is limited to employes of state government *and their families*;

(4) All persons who were professional staff employes of the council on higher education or the higher education assistance authority and were contributing to the system on the effective date of executive order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system;

(5) All persons who were professional staff employes of the Kentucky authority for educational television on and after July 1, 1974;

(6) All persons who are employes of the teachers' retirement system except employes who are required to participate under the teachers' retirement system under KRS 161.220(4)(d); and

(7) Membership in the system shall not include those employes who are simultaneously contributing to another *state administered* [~~public~~] retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 10. KRS 61.530 is amended to read as follows:

Any person who is an employe on the date his department first participates in the system, either in service or on leave from service, who does not elect within the time set forth in KRS 61.525 to become a member and thereby make contributions required of him by KRS 61.510 to *61.705* [~~61.692~~], shall forfeit all right for credit for service with any department prior to the date he might subsequently elect to become a member, except as provided in KRS 61.552.

Section 11. KRS 61.535 is amended to read as follows:

(1) The membership of any person in the system shall cease:

(a) Upon withdrawal of his accumulated contributions at or any time after termination of employment, regardless of length of service;

(b) Upon disability retirement;

(c) Upon service retirement;

(d) Upon death; and

(e) Upon termination of employment with prejudice.

(2) For purposes of KRS 61.510 to *61.705* [~~61.692~~], and 16.505 to 16.652 and 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.

Section 12. KRS 61.540 is amended to read as follows:

(1) Under such rules and regulations as are adopted by the board, each member and each employer shall file with the board, in such form as the board may prescribe, a statement of the facts pertaining to the member and such other information as the board may require. Until such statement is filed, no member or his beneficiary shall be eligible to receive any benefits under KRS 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852.

(2) The board shall prepare and furnish to all members a summary plan description, written in a manner calculated to be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652, 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the general manager, and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met;

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The board shall provide to retirees and beneficiaries so much of the summary plan description as they need to understand any changes in benefits which apply to them.

Section 13. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit, but in no case shall it allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) *Employes participating in one (1) of the state administered retirement systems* [~~Members of a county employes retirement system~~] who are *or have been* employed by a school district *participating in the county employes retirement system* to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employe or the school district may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment must be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1986, or their employers, may purchase service credit for previous years if payment is made by August 1, 1987.

Section 14. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky employes retirement system or the state police retirement system whose retirement date is July 14, 1984 or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. [~~A maximum of six (6) months of~~] The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to *61.705* [~~61.702~~] and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to *61.705* [~~61.702~~]. *Accumulated sick leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board.*

(3) The provisions of this section shall not apply to a participating agency whose employes are not employed

by the Commonwealth until the agency certifies to the board that a sick leave program has been formally adopted and is universally administered within the agency.

Section 15. KRS 61.550 is amended to read as follows:

When membership ceases, except in the case of retirement, the member shall thereafter lose all right to any retirement allowance or benefits under KRS 61.510 to *61.705* [~~61.692~~] and 16.505 to 16.652 and 78.510 to 78.852 arising from service prior to the date of such cessation of membership.

Section 16. KRS 61.552 is amended to read as follows:

(1) Any employe *participating in one (1) of the state administered retirement systems* [~~of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement plan or legislators' retirement plan~~] or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employe *participating in one (1) of the state administered retirement systems* [~~of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan~~] who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(3) Any employe *participating in one (1) of the state administered retirement systems* [~~of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan~~] who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(4) An employe [~~of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan~~] may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(5) An employe *who is or was an employe* [~~or former employe, not yet retired who has not withdrawn his contributions pursuant to KRS 61.625,~~] of a county participating in the county employes retirement system

which did not participate in the system effective July 1, 1958, may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(6) Effective July 15, 1986, service credit obtained under subsections (1) to *(5), (7) to (11), (13) and (14)* [~~(4)~~] of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, [~~or in the event of his death to his properly designated beneficiary~~] if the member does not obtain for service performed six (6) months current service credit in *one (1) of the state administered retirement systems* [~~either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan,~~] or as an employe of a parted employer. *The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.*

(7) Any employe *participating in one (1) of the state administered retirement systems* [~~of a county participating in the county employes retirement system, or any employe of a department participating in the Kentucky employes retirement system,~~] who has obtained for service performed six (6) months current service credit in *one (1) of the retirement systems administered by the Kentucky retirement systems* [~~either retirement system~~], who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the county employes retirement system, [~~or~~] the Kentucky employes retirement system *or the state police retirement system* for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employes, [~~or~~] Kentucky employes retirement system *or state police retirement system*. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.510 to

16.652 or 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employes of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1986, any employe *participating in one (1) of the state administered retirement systems* [~~of a county participating in the county employes retirement system, or any employe participating in the Kentucky employes retirement system, or any employe participating in the state police retirement system~~] may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employe participating in *one (1) of the state administered retirement systems* [~~the state police retirement system, Kentucky employes retirement system, or the county employes retirement system~~] may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employe participating in *one (1) of the state administered retirement systems* [~~the state police retirement system, Kentucky employes retirement system, or the county employes retirement system~~] may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employe participating in one (1) of the retirement systems administered by Kentucky retirement systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652 or 61.515 to 61.705 or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employe may make more than one (1) installment purchase at the same time. The employe may elect to stop the installment payments, by notifying the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employe shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employe contributions on the forms or by the computer format specified by the board. The payments made under this

subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employe dies, retires, terminates employment or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employe for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employe the payment, payments or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employe in one (1) of the three (3) systems administered by Kentucky retirement systems, the employe may complete the original installment purchase by lump sum or installment payments. If the employe elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with subsection (15)(a) of this section. If the original installment purchase was for multiple service purchases, the employe may not separate those purchases under a new installment purchase.

Section 17. KRS 61.558 is amended to read as follows:

(1) An employe participating in the Kentucky employes retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the county employes retirement system, the teachers' retirement system, state police retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given by paying to the system a delayed contribution payment. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

(2) *Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.*

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4)[~~(3)~~] No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 18. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852 and 16.510 to 16.652 shall file with the board on the form prescribed by the board, notification of retirement, giving his name, address, social security number, last day of employment and such other information as the board may require.

(2) Within ten (10) days of the receipt of the notification of retirement form, the board shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled, estimated retirement allowance, and forwarded to the member or beneficiary.

(3) The member or beneficiary shall return the form entitled, estimated retirement allowance, to the retirement office after he has checked the plan of his choice, signed the document and had his signature

witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been drawn by the state treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall file his birth certificate or other acceptable evidence of date of birth. In the event a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be filed.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed with the retirement office, provided employment has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(6) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early or disability retirement shall be as prescribed in subsection (5) or (6) of this section should the member die before the first retirement allowance has been drawn by the state treasurer and his beneficiary be eligible for payments under KRS 16.578 or 61.640.

Section 19. KRS 61.600 is amended to read as follows:

An employe with sixty (60) months of service, twelve (12) months of which *shall* [~~must~~] be current service, may retire at any time before his normal retirement date on account of disability upon written notification to the board. Application for disability benefits *shall* [~~must~~] be made within twelve (12) months *of his last day of paid* [~~after termination of~~] employment. Upon the examination by licensed physicians, it *shall* [~~must~~] be determined that the employe, since his last day of paid employment, has been mentally or physically incapacitated to engage in any occupation for remuneration or profit and that *the* [~~such~~] disability did not pre-exist at the time of initial employment or reemployment, [~~(~~]except in case where a disabled recipient has returned to work on a trial basis[~~)~~] and is a result of bodily injury, mental illness or disease and that *the* [~~such~~] incapacity is deemed to be permanent.

Section 20. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652 or 61.510 to *61.705* [~~61.692~~] or 78.510 to 78.852 a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employe's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employe's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(a) Add the monthly benefit payable to the disabled employe from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from social security, even though these payments may not begin for a period of time as required for qualification under the federal social security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.

(b) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employe's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final rate of pay or his final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employe's actual total service.

(c) The board is hereby authorized to pay estimated benefits to a disabled employe, upon qualification for disability retirement, based on an estimate of his social security and workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(d) Any increase in social security benefits or workers' compensation benefits which becomes law (regardless of their effective date) subsequent to the disabled employe's effective retirement date shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employe's effective retirement date.

(e) Any disabled recipient whose potential payments from the system where reduced as provided for in this section shall advise the board if his payments under the federal social security act or workers' compensation act cease at any time subsequent to his effective retirement date. Upon investigation, should the board determine that such disabled recipient continues to be eligible for disability benefits, the board may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (b) of this section.

Section 21. KRS 61.615 is amended to read as follows:

(1) Whenever the recipient of a disability retirement allowance is, prior to his normal retirement date, engaged in gainful occupation, the board at its discretion may reduce such retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the board of such employment; otherwise, the board shall have the right to recover payments made during such employment.

(2) Should it be determined that any disabled recipient is able to engage in gainful occupation, and should the board find that such person shall have refused any employment considered by the board suitable to his capacity, he shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the board such refusal was justified.

(3) The board shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the board shall utilize procedures consistent with KRS 61.665, including services of an examiner in determining the amount of reduction in retirement allowance under this section.

(4) *If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:*

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2) and further reduced by the actuarial value of the total amount of the disability retirement allowances he has received prior to reduction or discontinuation;

(d) The member shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the board after the member's normal retirement date except in case of re-employment as provided for by KRS 61.637. In any case where a disability retirement allowance has been reduced or discontinued, except where the member is re-employed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment, provided however, no reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 22. KRS 61.626 is amended to read as follows:

(1) The accumulated contributions of a member not in service may be transferred from the member account to the retirement allowance account if the member's account has remained inactive and the board has been unable to locate the member for a period of seven (7) years.

(2) If the member or his beneficiary, in the event of his death, requests benefits as provided by KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852 the transfer shall be reversed, and benefits paid in accordance with the provisions of KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852.

Section 23. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852. The amount of any such optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(3) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred twenty (120) months. If the member should become deceased before receivig payments for one hundred twenty (120) months, his beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period, except if the estate or trust is designated as beneficiary the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining monthly payments to the estate or trust of the member.

(6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred and eighty (180) months. If the member should become deceased before receiving payments for one hundred and eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period, except if the estate or trust is designated as beneficiary the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for two hundred and forty (240) months. If the member should become deceased before receiving payments for two hundred and forty (240) months, his beneficiary shall receive the remaining payments for the duration of the two hundred and forty (240) months period, except if the estate or trust is beneficiary, the executor or administrator of the estate or the trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(8) Social security adjustment options. These options are available to any member who has not attained age sixty-two (62) as follows:

(a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime;

(b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, provided the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two (62), in event of his death, and have such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(9) Beneficiary social security adjustment option. This option is available to the beneficiary of a deceased member where such beneficiary has not attained age sixty (60), and is eligible to receive social security payments at age sixty (60). The beneficiary may elect to receive during his lifetime an increased retirement allowance based on his annual benefit payable for life. Such payment shall begin on his effective retirement date and continue through the month he attains age sixty (60) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(10) Pop-up option. The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person. If the beneficiary dies prior to the member, *or if the beneficiary is the member's spouse and they divorce,* the member's retirement allowance will increase to the amount that would have been payable as a single life annuity.

(11) Actuarial equivalent refund. The member may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).

(12) In addition to the optional forms of annuities permitted under this section the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the general assembly shall, after the member's death, receive sixty-six and two-thirds percent (66 2/3%) of the member's retirement allowance during his or her lifetime if the member of the general assembly has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the general assembly shall not be actuarially reduced to provide for this survivor benefit.

(14) A member of the general assembly who wishes to obtain the survivorship option specified in subsection (13) of this section shall so notify the Kentucky retirement systems:

(a) Within thirty (30) days after first becoming a member of the general assembly if he is not a member of the general assembly on July 15, 1980; or

(b) Within thirty (30) days after July 15, 1980 in the case of persons who are members of the general assembly on July 15, 1980.

(15) The board of directors of the Kentucky retirement systems shall prepare and forward to members of the general assembly a form on which a member may elect the option provided for in subsections (13) and (14) of this section.

(16) The options described in subsections (2), (3), (4), (8)(b), (10) and (13) of this section shall be extended to the member only where the designated beneficiary is a person.

Section 24. KRS 61.645 is amended to read as follows:

(1) The *county employes retirement system, Kentucky employes retirement system and state police retirement* system shall be administered *exclusively* by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members *and retired members* of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members *and retired members* of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members *and retired members* of the Kentucky employes retirement system; and

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses [~~in accordance with normal state regulations and standards~~].

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employes as he deems necessary. *The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement systems. The compensation of all the persons employed by the board shall be paid at rates and in amounts the board approves. Anything in the Kentucky revised statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employes in the system shall be under the exclusive jurisdiction of the board of trustees* [~~Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system, and salaries shall be subject to the commissioner of personnel~~];

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; [~~and~~]

(e) *Be responsible for the approval and administration of the budget. Expenses for the operation of the retirement systems shall be in such amounts as the board of trustees approves, subject to the provisions of subsection*

(13) of this section and KRS 78.780; and

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred and twenty (120) days of the board action.

Section 25. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the district court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) In accordance with the laws, regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to *61.705* [~~61.692~~] shall be registered in the name "Kentucky [~~Employes~~] Retirement *Systems* [~~System~~] of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(4) For the purpose of meeting disbursements for allowances and other payments, there may be left available cash on deposit in such sums as the board of trustees may direct in one (1) or more banks or trust companies in this state organized under the laws of this state or of the United States. The total amount of cash on hand and unsecured deposits at any time shall not exceed the receipts of the retirement system from all sources during the previous twelve (12) months.

Section 26. KRS 61.660 is amended to read as follows:

(1) The state treasurer shall be the custodian of the funds received under authority of KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852 and he shall be responsible for the safekeeping of all cash and securities in his custody. All payments from said fund shall be made *only upon vouchers signed by the general manager or the chairman of the board of trustees of the retirement systems or persons delegated in writing by the board* [~~by him on warrants issued by the department of finance~~]. Payments may be in the form of checks or direct deposit bank transfers.

(2) The board shall appoint a custodian or custodians of the securities acquired under authority of KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852 and the custodian or custodians shall be responsible for the safekeeping of securities in his custody.

Section 27. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to *61.705* [~~61.692~~] and 16.505 to 16.652 and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to *61.705* [~~61.692~~] and 16.505 to 16.652 and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations orders issued by a court shall be honored by the retirement systems if the orders are in compliance with the policy adopted by the board pursuant to KRS 61.645(9)(e).

Section 28. KRS 61.691 is amended to read as follows:

(1) Effective July 1, *1988* [~~1986~~] and July 1, *1989* [~~1987~~], a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by four *and one-half* percent *(4 1/2%)* [~~(4%)~~]. *Thereafter, the board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky employes retirement system as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of four and one-half percent (4 1/2%) per year.*

(2) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

Section 29. KRS 61.692 is amended to read as follows:

It is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to *61.705* [~~61.692~~] shall constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall not be subject to reduction or impairment by alteration, amendment or repeal.

Section 30. KRS 61.705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system who had a minimum of forty-eight (48) months of service, a death benefit of two thousand five hundred dollars ($2,500) shall be paid [~~to the retired member's estate~~]. Application for the death benefit made to the Kentucky retirement systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

Section 31. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, except in the case of volunteer fire fighters serving a fire district created pursuant to KRS 75.010, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. In the case of fire fighters employed by a district created pursuant to KRS 75.010 who are paid less than five thousand dollars ($5,000) per year for fire fighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees. *Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;*

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: nineteen hundred fifty (1950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions *that average one hundred (100) or more hours per month, unless otherwise specified,* except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year; in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty, and except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; [~~and~~]

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system*;*

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(25) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust or trustee; and

(26) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 32. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period; [~~and~~]

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535; *and*

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employes who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employes who later elect membership from the participation date of the county to the date the member elects participation. The employe shall pay the employe contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employe and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under subsection (3)(b) of this section.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall, if its local pension system provides a defined benefit, select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

Section 33. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates in the system, except that city managers [~~or other appointed local government executives~~] who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852.

(3) *All persons electing coverage in the system under KRS 78.530(3)(d).*

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the county employes retirement system to employes in any employe category not covered by a city pension system at the date of participation.

(5)[~~(4)~~] Membership in the system shall not include those employes who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 34. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, armed forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employes determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employes to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702; [~~and~~]

(37) Death benefit, as provided by KRS 61.705*; and*

(38) Reinstated employe, contributions on creditable compensation, as provided for by KRS 61.569.

Section 35. KRS 78.550 is amended to read as follows:

Any person who is an employe on the date his county first participates in the system, either in service or on leave from service, who does not elect within the time set forth in KRS 78.510 to 78.852 to become a member and thereby make contributions required of him by KRS 78.510 to 78.852, shall forfeit all right for credit for service with any county prior to the date he might subsequently elect to become a member, except as provided in KRS 61.552 *or 78.530(3)(d).*

Section 36. KRS 78.605 is amended to read as follows:

(1) An employe participating in the county employes' retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the Kentucky employes' retirement system, the teachers' retirement system, the state police retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. Such payments shall not be picked up as described in KRS 78.610(4).

(2) *Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance*

recalculated in the month following receipt of his payment to reflect the additional service.

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4)[~~(3)~~] No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 37. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the county employes retirement system which has formally adopted a sick leave program that is universally administered to its employes may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employe.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the board on forms prescribed by the board. The certification shall provide for equal treatment of all employes.

(3) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employe's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 *and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board.*

(4) The board shall compute the cost to the retirement system of the sick leave credit of each retiring employe and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

Section 38. KRS 78.625 is amended to read as follows:

(1) The treasurer of the county shall, by the tenth day of each month, forward to the board an amount equal to the aggregate amount of the employes' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The treasurer or some other person designated by the county shall forward a record of all such contributions to the board on such forms as the board may prescribe.

(3) Delinquent contributions, with interest at the rate of *eight percent (8%)* [~~seven and one-half percent (7 1/2%)~~] per year compounded annually, may be recovered by action in the Franklin Circuit Court against the county liable therefor or may at the request of the board, be deducted from any other moneys payable to such county by any department or agency of the state.

(4) In the event an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

Section 39. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky retirement systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky employes retirement system. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the

provisions of KRS 61.510 to *61.705* [~~61.692~~], except that members of the board, when acting for the county employes retirement system, shall be paid a per diem of sixty dollars ($60), plus actual expenses.

(2) Expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board payable out of the retirement allowance account in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

Section 40. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name *Kentucky retirement systems* [~~"county employes retirement system~~] of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and general manager of the board of trustees.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

The Committee Substitute to **HB 371** is as follows:

HB 371, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the department of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employe

contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded. *Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;*

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during such five (5) year period, multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the department of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system, a member of the county employes retirement system or a member of the Kentucky employes retirement system covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time; [~~and~~]

(24) "Hazardous disability" as used in KRS 16.510 to 16.652 means such disability as results in an employe's total incapacity to continue as an employe in a hazardous position, but such employe is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweeky, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust, or trustee; and

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 2. KRS 16.520 is amended to read as follows:

(1) Membership in the system shall consist of all regular full-time officers of the Kentucky state police appointed pursuant to KRS 16.050 who are entitled to exercise the powers of peace officers.

(2) No person who is age thirty-one (31) or over shall be eligible to become an employe of the Kentucky state police.

(3) Membership in the system shall not include those employes who are simultaneously contributing to another *state administered* [~~public~~] retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 3. KRS 16.537 is amended to read as follows:

(1) An employe participating in the state police retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the county employes retirement system, Kentucky employes retirement system, teachers' retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 16.545(4), by the employer.

(2) *Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.*

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4)[~~(3)~~] No person shall be allowed credit for the same period of service in more than one (1) of these

four (4) retirement systems.

Section 4. KRS 16.642 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.505 to 16.652 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may, at its discretion, purchase common stock in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under authority of KRS 16.505 to 16.652 shall be registered in the name *"Kentucky retirement systems"* [~~"state police retirement system of the Commonwealth of Kentucky"~~] or nominee name as provided by KRS 287.225, and every change in registration, by reason of sale or assignment of such securities shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 5. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615; [~~and~~]

(26) Service credit, armed forces, as provided by KRS 61.555*;*

(27) Reinstated employe, contributions on creditable compensation, as provided for by KRS 61.569; and

(28) Retirement allowance reduction factors, as provided by Section 44 of this Act.

Section 6. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) Effective August 1, *1988* [~~1986~~], the member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *forty-five hundredths percent (2.45%)* [~~four-tenths percent (2.4%)~~] of final compensation for each year of service credit. Effective August 1, *1988* [~~1986~~], a member of the county employes retirement system *or Kentucky employes retirement system* covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *five-tenths percent (2.5%)* [~~forty-five hundredths percent (2.45%)~~] of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978 or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable

under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.505 to 16.652 a member who has attained age fifty five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 7. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives, or any other entity, the employes of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including

employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except that for members of the general assembly it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. *Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code*;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the general assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; nineteen hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions *that average one hundred (100) or more hours per month, including all positions* as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(8) except the employe shall pay a single payment of fifty percent (50%) of the total cost of such service with no cost to the employer, and such payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system; [~~and~~]

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary does not mean an estate, trust or trustee; and

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 8. KRS 61.515 is amended to read as follows:

There is hereby created and established:

(1) A retirement system for employes to be known as the "Kentucky employes retirement system" by and in which name it shall, pursuant to the provisions of KRS 61.510 to *61.705* [~~61.692~~], transact all of its business and shall have the powers and privileges of a corporation; and

(2) A state fund, called the "Kentucky employes retirement fund," which shall consist of all the assets of the system as set forth in KRS 61.570 to 61.585.

Section 9. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating department after the date such department first participates in the system;

(2) All persons who are employes of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following such department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(3) All persons who are employes of any credit union whose membership is limited to employes of state government *and their families*;

(4) All persons who were professional staff employes of the council on higher education or the higher education assistance authority and were contributing to the system on the effective date of executive order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system;

(5) All persons who were professional staff employes of the Kentucky authority for educational television on and after July 1, 1974;

(6) All persons who are employes of the teachers' retirement system except employes who are required to participate under the teachers' retirement system under KRS 161.220(4)(d); and

(7) Membership in the system shall not include those employes who are simultaneously contributing to another *state administered* [~~public~~] retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 10. KRS 61.530 is amended to read as follows:

Any person who is an employe on the date his department first participates in the system, either in service or on leave from service, who does not elect within the time set forth in KRS 61.525 to become a member and thereby make contributions required of him by KRS 61.510 to *61.705* [~~61.692~~], shall forfeit all right for credit for service with any department prior to the date he might subsequently elect to become a member, except as provided in KRS 61.552.

Section 11. KRS 61.535 is amended to read as follows:

(1) The membership of any person in the system shall cease:

(a) Upon withdrawal of his accumulated contributions at or any time after termination of employment, regardless of length of service;

(b) Upon disability retirement;

(c) Upon service retirement;

(d) Upon death; and

(e) Upon termination of employment with prejudice.

(2) For purposes of KRS 61.510 to *61.705* [~~61.692~~], and 16.505 to 16.652 and 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.

Section 12. KRS 61.540 is amended to read as follows:

(1) Under such rules and regulations as are adopted by the board, each member and each employer shall file with the board, in such form as the board may prescribe, a statement of the facts pertaining to the member and such other information as the board may require. Until such statement is filed, no member or his beneficiary shall be eligible to receive any benefits under KRS 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852.

(2) The board shall prepare and furnish to all members a summary plan description, written in a manner calculated to be understood by the average member or beneficiary, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the provisions of KRS 16.505 to 16.652; 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the general manager, and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met;

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The board shall provide to retirees and beneficiaries so much of the summary plan description as they need to understand any changes in benefits which apply to them.

Section 13. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate rules and regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit, but in no case shall it allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) *Employes participating in one (1) of the state administered retirement systems* [~~Members of a county employes retirement system~~] who are *or have been* employed by a school district *participating in the county employes retirement system* to work less than twelve (12) months each year may purchase the additional months of service credit needed to total one (1) year of service credit. The employe or the school district may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment must be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. Members who have service credit prior to July 1, 1986, or their employers, may purchase service credit for previous years if payment is made by August 1, 1987.

Section 14. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky employes retirement system or the state police retirement system whose retirement date is July 14, 1984 or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the board of trustees of the

Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. [~~A maximum of six (6) months of~~] The member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to *61.705* [~~61.702~~] and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to *61.705* [~~61.702~~]. *Accumulated sick leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board.*

(3) The provisions of this section shall not apply to a participating agency whose employes are not employed by the Commonwealth until the agency certifies to the board that a sick leave program has been formally adopted and is universally administered within the agency.

Section 15. KRS 61.550 is amended to read as follows:

When membership ceases, except in the case of retirement, the member shall thereafter lose all right to any retirement allowance or benefits under KRS 61.510 to *61.705* [~~61.692~~] and 16.505 to 16.652 and 78.510 to 78.852 arising from service prior to the date of such cessation of membership.

Section 16. KRS 61.552 is amended to read as follows:

(1) Any employe *participating in one (1) of the state administered retirement systems* [~~of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement plan or legislators' retirement plan~~] or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employe *participating in one (1) of the state administered retirement systems* [~~of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan~~] who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(3) Any employe *participating in one (1) of the state administered retirement systems* [~~of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan~~] who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(4) An employe [~~of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system,~~

~~judicial retirement plan or legislators' retirement plan~~] may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(5) An employe *who is or was an employe* [~~or former employe, not yet retired who has not withdrawn his contributions pursuant to KRS 61.625,~~] of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. *Payment shall be by lump sum, except that the employe may pay by increments. The minimum increment payment shall be for a full year of service unless there is a fraction remaining after all full years have been paid for.*

(6) Effective July 15, 1986, service credit obtained under subsections (1) to *(5), (7) to (11), (13) and (14)* [~~(4)~~] of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, [~~or in the event of his death to his properly designated beneficiary~~] if the member does not obtain for service performed six (6) months current service credit in *one (1) of the state administered retirement systems* [~~either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan,~~] or as an employe of a parted employer. *The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600.*

(7) Any employe *participating in one (1) of the state administered retirement systems* [~~of a county participating in the county employes retirement system, or any employe of a department participating in the Kentucky employes retirement system,~~] who has obtained for service performed six (6) months current service credit in *one (1) of the retirement systems administered by the Kentucky retirement systems* [~~either retirement system~~], who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the county employes retirement system, [~~or~~] the Kentucky employes retirement system *or the state police retirement system* for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employes, [~~or~~] Kentucky employes retirement system *or state police retirement system.* The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.510 to 16.652 or 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employes of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1986, any employe *participating in one (1) of the state administered retirement systems* [~~of a county participating in the county employes retirement system, or any employe participating in the Kentucky employes retirement system, or any employe participating in the state police retirement system~~] may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employe participating in *one (1) of the state administered retirement systems* [~~the state police retirement system, Kentucky employes retirement system, or the county employes retirement system~~] may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employe participating in *one (1) of the state administered retirement systems* [~~the state police retirement system, Kentucky employes retirement system, or the county employes retirement system~~] may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employe participating in one (1) of the retirement systems administered by Kentucky retirement systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652 or 61.515 to 61.705 or 78.520 to 78.852 by making installment payments in lieu of a lump sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employe may make more than one (1) installment purchase at the same time. The employe may elect to stop the installment payments, by notifying

the retirement system; or may have the installment purchase recalculated to add one (1) or more additional service purchases or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments will be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employe shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employe contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employe dies, retires, terminates employment or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have thirty (30) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employe for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employe the payment, payments or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under subsection (15)(e) or (f) of this section and the member later becomes a participating employe in one (1) of the three (3) systems administered by Kentucky retirement systems, the employe may complete the original installment purchase by lump sum or installment payments. If the employe elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with subsection (15)(a) of this section. If the original installment purchase was for multiple service purchases, the employe may not separate those purchases under a new installment purchase.

Section 17. KRS 61.558 is amended to read as follows:

(1) An employe participating in the Kentucky employes retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the county employes retirement system, the teachers' retirement system, state police retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given by paying to the system a delayed contribution payment. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

(2) *Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.*

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4)[~~(3)~~] No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 18. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to *61.705* [~~61.692~~] and 78.510 to 78.852 and 16.510 to 16.652 shall file with the board on the form

prescribed by the board, notification of retirement, giving his name, address, social security number, last day of employment and such other information as the board may require.

(2) Within ten (10) days of the receipt of the notification of retirement form, the board shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled, estimated retirement allowance, and forwarded to the member or beneficiary.

(3) The member or beneficiary shall return the form entitled, estimated retirement allowance, to the retirement office after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been drawn by the state treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall file his birth certificate or other acceptable evidence of date of birth. In the event a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be filed.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed with the retirement office, provided employment has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(6) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early or disability retirement shall be as prescribed in subsection (5) or (6) of this section should the member die before the first retirement allowance has been drawn by the state treasurer and his beneficiary be eligible for payments under KRS 16.578 or 61.640.

Section 19. KRS 61.600 is amended to read as follows:

(1) An employe with sixty (60) months of service, twelve (12) months of which *shall* [~~must~~] be current service, may retire at any time before his normal retirement date on account of disability upon written notification to the board. Application for disability benefits *shall* [~~must~~] be made within twelve (12) months *of his last paid day* [~~after termination~~] of employment. Upon the examination by licensed physicians, it *shall* [~~must~~] be determined that the employe, since his last day of paid employment, has been mentally or physically incapacitated to *perform his job or jobs of like duties from which he received his last paid employment* [~~engage in any occupation for remuneration or profit~~] and that *the* [~~such~~] disability did not pre-exist at the time of initial employment or reemployment, [~~(~~]except in case where a disabled recipient has returned to work on a trial basis[~~)~~] and is a result of bodily injury, mental illness or disease and that *the* [~~such~~] incapacity is deemed to be permanent.

(2) A disability shall be deemed to be permanent if that disability is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the employe's last day of paid employment. For the purposes of determining permanence under this section, the board's medical examiners shall use the medical criteria under the social security disability program.

(3) Employes who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.

Section 20. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652 or 61.510 to *61.705* [~~61.692~~] or 78.510 to 78.852 a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employe's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employe's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(a) Add the monthly benefit payable to the disabled employe from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from social security, even though these payments may not begin for a period of time as required for qualification under the federal social security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit.

(b) If the projected combined monthly benefit exceeds one hundred percent (100%) of the disabled employe's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final rate of pay or his final compensation, whichever is greater; however, the disability retirement allowance shall not be reduced below an amount which would result from a computation of his disability retirement allowance from the retirement system using the disabled employe's actual total service.

(c) The board is hereby authorized to pay estimated benefits to a disabled employe, upon qualification for disability retirement, based on an estimate of his social security and workers' compensation benefits until such amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(d) Any increase in social security benefits or workers' compensation benefits which becomes law (regardless of their effective date) subsequent to the disabled employe's effective retirement date shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employe's effective retirement date.

(e) Any disabled recipient whose potential payments from the system where reduced as provided for in this section shall advise the board if his payments under the federal social security act or workers' compensation act cease at any time subsequent to his effective retirement date. Upon investigation, should the board determine that such disabled recipient continues to be eligible for disability benefits, the board may increase his retirement allowance by adding to his payment an amount equal to the reduction applied upon the effective retirement date in accordance with subsection (b) of this section.

Section 21. KRS 61.615 is amended to read as follows:

(1) Whenever the recipient of a disability retirement allowance is, prior to his normal retirement date, engaged in gainful occupation, the board at its discretion may reduce such retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the board of such employment; otherwise, the board shall have the right to recover payments made during such employment.

(2) Should it be determined that any disabled recipient is able to engage in gainful occupation, and should the board find that such person shall have refused any employment considered by the board suitable to his capacity, he shall not be entitled to any such allowance during the continuance of such refusal, unless in the opinion of the board such refusal was justified.

(3) The board shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the board shall utilize procedures consistent with KRS 61.665, including services of an examiner in determining the amount of reduction in retirement allowance under this section.

(4) *If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:*

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the

member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2) and further reduced by the actuarial value of the total amount of the disability retirement allowances he has received prior to reduction or discontinuation;

(d) The member shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the board after the member's normal retirement date except in case of re-employment as provided for by KRS 61.637. In any case where a disability retirement allowance has been reduced or discontinued, except where the member is re-employed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment, provided however, no reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 22. KRS 61.626 is amended to read as follows:

(1) The accumulated contributions of a member not in service may be transferred from the member account to the retirement allowance account if the member's account has remained inactive and the board has been unable to locate the member for a period of seven (7) years.

(2) If the member or his beneficiary, in the event of his death, requests benefits as provided by KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852 the transfer shall be reversed, and benefits paid in accordance with the provisions of KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852.

Section 23. KRS 61.635 is amended to read as follows:

(1) Each member shall have the right to elect to have his retirement allowance payable under any one (1) of the options set forth in this section in lieu of the retirement allowance otherwise payable to him upon retirement under any of the provisions of KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852. The amount of any such optional retirement allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him.

(2) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(3) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during his lifetime and have two-thirds (2/3) of such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(4) Survivorship fifty percent (50%). The member may elect to receive a decreased retirement allowance during his lifetime and have one-half (1/2) of such retirement allowance continued after his death to his beneficiary during the lifetime of such person.

(5) Life with ten (10) years certain. The member less than age seventy-six (76) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred twenty (120) months. If the member should become deceased before receiving payments for one hundred twenty (120) months, his beneficiary shall receive the remaining payments monthly, for the duration of the one hundred twenty (120) months' period, except if the estate or trust is designated as beneficiary the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining monthly payments to the estate or trust of the member.

(6) Life with fifteen (15) years certain. The member less than age sixty-eight (68) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for one hundred and eighty (180) months. If the member should become deceased before receiving payments for one hundred and eighty (180) months, his beneficiary shall receive the remaining payments monthly for the duration of the one hundred and eighty (180) months' period, except if the estate or trust is designated as beneficiary the executor or administrator of the estate or trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(7) Life with twenty (20) years certain. The member less than age sixty-two (62) may elect to receive a monthly retirement allowance during his lifetime which shall guarantee payments for two hundred and forty (240) months. If the member should become deceased before receiving payments for two hundred and forty (240) months, his beneficiary shall receive the remaining payments for the duration of the two hundred and forty (240) months period, except if the estate or trust is beneficiary, the executor or administrator of the estate or the trustee of the trust may elect to receive a lump sum payment which shall be the actuarial equivalent to the remaining payments, or said executor or administrator or trustee may elect to continue the remaining payments to the estate or trust of the member.

(8) Social security adjustment options. These options are available to any member who has not attained age sixty-two (62) as follows:

(a) No survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) at which time his retirement allowance shall be decreased for the remainder of his lifetime;

(b) Survivor rights. The member may elect to receive an increased retirement allowance from his effective retirement date through the month he attains age sixty-two (62) based on the option payable under subsection (2) of this section, provided the retirement allowance shall be decreased in the month following the month he attains age sixty-two (62), or the month following the month he would have attained age sixty-two (62), in event of his death, and have such retirement allowance continue after his death to his beneficiary during the lifetime of such person.

(9) Beneficiary social security adjustment option. This option is available to the beneficiary of a deceased member where such beneficiary has not attained age sixty (60), and is eligible to receive social security payments at age sixty (60). The beneficiary may elect to receive during his lifetime an increased retirement allowance based on his annual benefit payable for life. Such payment shall begin on his effective retirement date and continue through the month he attains age sixty (60) at which time his retirement allowance shall be decreased for the remainder of his lifetime.

(10) Pop-up option. The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued after his death to his beneficiary during the lifetime of such person. If the beneficiary dies prior to the member, *or if the beneficiary is the member's spouse and they divorce*, the member's retirement allowance will increase to the amount that would have been payable as a single life annuity.

(11) Actuarial equivalent refund. The member may elect to receive a one (1) time lump sum payment which shall be the actuarial equivalent of the amount payable for a period of sixty (60) months under KRS 61.595 (1).

(12) In addition to the optional forms of annuities permitted under this section the board may establish such additional optional forms of annuities as it deems desirable. Such additional forms of annuities shall be based on actuarial equivalent values, with due regard to selection against the fund.

(13) The other provisions of this section notwithstanding, the beneficiary of a retired member of the general assembly shall, after the member's death, receive sixty-six and two-thirds percent (66 2/3%) of the member's retirement allowance during his or her lifetime if the member of the general assembly has elected this option and has made contributions in accordance with subsection (14) of this section and of KRS 61.560. The retirement allowance of the retired member of the general assembly shall not be actuarially reduced to provide for this survivor benefit.

(14) A member of the general assembly who wishes to obtain the survivorship option specified in subsection

(13) of this section shall so notify the Kentucky retirement systems:

(a) Within thirty (30) days after first becoming a member of the general assembly if he is not a member of the general assembly on July 15, 1980; or

(b) Within thirty (30) days after July 15, 1980 in the case of persons who are members of the general assembly on July 15, 1980.

(15) The board of directors of the Kentucky retirement systems shall prepare and forward to members of the general assembly a form on which a member may elect the option provided for in subsections (13) and (14) of this section.

(16) The options described in subsections (2), (3), (4), (8)(b), (10) and (13) of this section shall be extended to the member only where the designated beneficiary is a person.

Section 24. KRS 61.645 is amended to read as follows:

(1) The *county employes retirement system, Kentucky employes retirement system and state police retirement* system shall be administered *exclusively* by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members *and retired members* of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members *and retired members* of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members *and retired members* of the Kentucky employes retirement system; and

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses [~~in accordance with normal state regulations and standards~~].

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board:

(b) Authorize the general manager to appoint such employes as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system, and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; [~~and~~]

(e) *Be responsible for the approval and administration of the budget. Expenses for the operation of the retirement systems shall be in such amounts as the board of trustees approves, subject to the provisions of subsection (13) of this section and KRS 78.780; and*

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred and twenty (120) days of the board action.

Section 25. KRS 61.650 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 16.510, 61.515, 61.701, and 78.520 and shall have full power to invest and reinvest such funds, subject to the limitations that no investments shall be made except in securities which, at the time of making the investment, are, by law, permitted for

the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders and may acquire real estate without obtaining the approval of the district court as set forth in KRS 386.020(1)(h). Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of, any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds. The board members or any investment manager shall discharge their duties with respect to the assets of the several funds solely in the interest of the members and beneficiaries and:

(a) For the exclusive purposes of providing benefits to members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) In accordance with the laws, regulations and other instruments governing the several funds.

(2) All registered securities acquired under authority of KRS 61.510 to *61.705* [~~61.692~~] shall be registered in the name "Kentucky [~~Employes~~] Retirement *Systems* [~~System~~] of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and the general manager of the board of trustees.

(3) The board, in keeping with its responsibility as trustee and wherever consistent with its fiduciary responsibilities, shall give priority to the investment of funds in obligation calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 26. KRS 61.660 is amended to read as follows:

(1) The state treasurer shall be the custodian of the funds received under authority of KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852 and he shall be responsible for the safekeeping of all cash and securities in his custody. All payments from said fund shall be made *only upon vouchers signed by the general manager or the chairman of the board of trustees of the retirement systems or persons delegated in writing by the board* [~~by him on warrants issued by the department of finance~~]. Payments may be in the form of checks or direct deposit bank transfers.

(2) The board shall appoint a custodian or custodians of the securities acquired under authority of KRS 61.510 to *61.705* [~~61.692~~] and 16.510 to 16.652 and 78.510 to 78.852 and the custodian or custodians shall be responsible for the safekeeping of securities in his custody.

Section 27. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to *61.705* [~~61.692~~] and 16.505 to 16.652 and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to *61.705* [~~61.692~~] and 16.505 to 16.652 and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process whatsoever, nor shall any assignment thereof be enforceable in any court.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions or any other benefit under the system shall not be classified as marital property pursuant to KRS 403.190(1) in an action for dissolution of marriage if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2).

(3) Qualified domestic relations orders issued by a court shall be honored by the retirement systems if the orders are in compliance with the policy adopted by the board pursuant to KRS 61.645(9)(e).

Section 28. KRS 61.691 is amended to read as follows:

(1) Effective July 1, *1988* [~~1986~~] and July 1, *1989* [~~1987~~], a recipient of a retirement allowance under KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852 shall have his retirement allowance increased by four *and one-half* percent *(4 1/2%)* [~~(4%)~~]. *Thereafter, the board shall increase retirement allowances each year of the biennium by fifty percent (50%) of the rate margin for the nonhazardous members of the Kentucky employes retirement system as determined by the board's actuary in the annual actuarial valuation prior to the biennium with a maximum increase of five percent (5%) per year.*

(2) A reemployed retired member whose payments are suspended as provided under KRS 61.637 shall be eligible for an increase in his suspended retirement allowance as provided under this section, computed as if he were receiving said retirement allowance at the time such increase under this section is effective.

Section 29. KRS 61.692 is amended to read as follows:

It is hereby declared that in consideration of the contributions by the members and in further consideration of benefits received by the state from the member's employment, KRS 61.510 to *61.705* [~~61.692~~] shall constitute an inviolable contract of the Commonwealth, and the benefits provided therein shall not be subject to reduction or impairment by alteration, amendment or repeal.

Section 30. KRS 61:705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system who had a minimum of forty-eight (48) months of service, a death benefit of two thousand five hundred dollars ($2,500) shall be paid [~~to the retired member's estate~~]. Application for the death benefit made to the Kentucky retirement systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

Section 31. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, except in the case of volunteer fire fighters serving a fire district created pursuant to KRS 75.010, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. In the case of fire fighters employed by a district created pursuant to KRS 75.010 who are paid less than five thousand dollars ($5,000) per year for fire fighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees. *Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code*;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: nineteen hundred fifty (1950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions *that average one hundred (100) or more hours per month, unless otherwise specified,* except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year; in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty, and except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; [~~and~~]

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system*;*

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly or yearly rate of pay converted to an annual rate as defined in final rate of pay. Such rate shall be certified by the employer;

(25) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust or trustee; and

(26) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance.

Section 32. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2), current service credit for employment in regular full-time positions between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period; [~~and~~]

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535*; and*

(d) The county may at a later date purchase current service credit from July 1, 1958, to the participation date of the county by alternate participation plan for those employes who rejected membership in the system at the time the county first participated. In addition, the employer shall pay the employer contributions on the creditable compensation of the employes who later elect membership from the participation date of the county to the date the member elects participation. The employe shall pay the employe contributions on his creditable compensation from the participation date of the county to the date he elects membership plus interest at the current actuarial rate compounded annually on the employe and employer contributions. Cost of the service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of the actuarial service shall be paid by the county. The county shall pay the cost of the service by lump sum or by adding it to the existing payment schedule established under subsection (3)(b) of this section.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall, if its local pension system provides a defined benefit, select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

Section 33. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employes of a participating county after the date such county first participates

in the system, except that city managers [~~or other appointed local government executives~~] who participate in a retirement system, other than social security, which operates in more than one (1) state, may decline to participate in the system; and

(2) All persons who are employes of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following such county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852.

(3) *All persons electing coverage in the system under KRS 78.530(3)(d).*

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the county employes retirement system to employes in any employe category not covered by a city pension system at the date of participation.

(5)[~~(4)~~] Membership in the system shall not include those employes who are simultaneously contributing to another public retirement fund within Kentucky other than those administered by the Kentucky retirement systems.

Section 34. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, armed forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employes determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employes to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702; [~~and~~]

(37) Death benefit, as provided by KRS 61.705*;*

(38) Reinstated employe, contributions on creditable compensation, as provided for by KRS 61.569; and

(39) Retirement allowance reduction factors, as provided by Section 44 of this Act.

Section 35. KRS 78.550 is amended to read as follows:

Any person who is an employe on the date his county first participates in the system, either in service or on leave from service, who does not elect within the time set forth in KRS 78.510 to 78.852 to become a member and thereby make contributions required of him by KRS 78.510 to 78.852, shall forfeit all right for credit for service with any county prior to the date he might subsequently elect to become a member, except as provided in KRS 61.552 *or 78.530(3)(d).*

Section 36. KRS 78.605 is amended to read as follows:

(1) An employe participating in the county employes' retirement system may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the Kentucky employes' retirement system, the teachers' retirement system, the state police retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given, by paying to the system a delayed contribution payment. Such payments shall not be picked up as described in KRS 78.610(4).

(2) *Any member who terminated employment prior to July 1, 1986, who has not retired or who retired August 1, 1986, or thereafter may purchase service credit under subsection (1) of this section by paying to the system the cost of the additional service, calculated in accordance with the formula adopted by the board. The additional service shall be credited to the member's account. A retired member shall have his retirement allowance recalculated in the month following receipt of his payment to reflect the additional service.*

(3) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(4)[~~(3)~~] No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.

Section 37. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the county employes retirement system which has formally adopted a sick leave program that is universally administered to its employes may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employe.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the board on forms prescribed by the board. The certification shall provide for equal treatment of all employes.

(3) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employe's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 *and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick leave in excess of six (6) months shall be added to the member's service credit if the member pays to the retirement system the value of the additional service credit based on the formula adopted by the board.*

(4) The board shall compute the cost to the retirement system of the sick leave credit of each retiring employe and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

Section 38. KRS 78.625 is amended to read as follows:

(1) The treasurer of the county shall, by the tenth day of each month, forward to the board an amount equal to the aggregate amount of the employes' contributions deducted during the previous month in accordance with KRS 78.610 and the aggregate amount of the employer's contributions due for the previous month in accordance with KRS 61.565.

(2) The treasurer or some other person designated by the county shall forward a record of all such contributions to the board on such forms as the board may prescribe.

(3) Delinquent contributions, with interest at the rate of *eight percent (8%)* [~~seven and one-half percent (7 1/2%)~~] per year compounded annually, may be recovered by action in the Franklin Circuit Court against the county liable therefor or may at the request of the board, be deducted from any other moneys payable to such county by any department or agency of the state.

(4) In the event an agency is delinquent in the payment of contributions due in accordance with any of the provisions of KRS 78.510 to 78.852, refunds and retirement allowance payments to members of this agency may be suspended until the delinquent contributions have been made.

Section 39. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky retirement systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky employes retirement system. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to *61.705* [~~61.692~~], except that members of the board, when acting for the county employes retirement system, shall be paid a per diem of sixty dollars ($60), plus actual expenses.

(2) Expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board payable out of the retirement allowance account in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

Section 40. KRS 78.790 is amended to read as follows:

(1) The board shall be the trustee of the several funds created by KRS 78.510 to 78.852, and shall have full power to invest and reinvest such funds subject to the limitations that no investments shall be made except upon the exercise of bona fide discretion, in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state except that the board may, at its discretion, purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. Subject to such limitations, the board shall have full power to hold, purchase, sell, assign, transfer or dispose of any of the securities or investments in which any of the funds created herein have been invested, as well as of the proceeds of such investments and any moneys belonging to such funds.

(2) All registered securities acquired under the authority of KRS 78.510 to 78.852 shall be registered in the name *Kentucky retirement systems* [~~"county employes retirement system~~] of the Commonwealth of Kentucky" or nominee name as provided by KRS 287.225 and every change in registration, by reason of sale or assignment of such securities, shall be accomplished by the signatures of the chairman or a trustee appointed by the chairman and general manager of the board of trustees.

(3) The board, in keeping with its responsibility as the trustee and wherever feasible, shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

Section 41. KRS 61.610 is amended to read as follows:

(1) Once each year following the retirement of a member on a disability retirement allowance, the board may require such person, prior to his normal retirement date, to undergo a medical examination. Should he refuse to submit to any such medical examination, his retirement allowance shall be discontinued until his withdrawal of such refusal, and should such refusal continue for one (1) year, all his rights to any further disability allowance shall cease.

(2) Disability retirees whose effective retirement date is August 1, 1988, or thereafter shall undergo an annual financial and medical staff review and, if necessary, be required to submit current medical information.

Section 42. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, practicing in the state and not members of the system, upon such terms and conditions as it may prescribe, whose duty it shall be to pass upon all medical

examinations required under KRS *61.510* [~~61.515~~] to 61.705 and *16.505* [~~16.510~~] to 16.652 and *78.510* [~~78.520~~] to 78.852 or by the board, and to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to such person under KRS *61.510* [~~61.515~~] to 61.705 and *16.505* [~~16.510~~] to 16.652 and *78.510* [~~78.520~~] to 78.852, and shall report in writing to the board his conclusions and recommendations upon all matters referred to him.

(2) (a) Each employe requesting disability retirement shall furnish the retirement office with the names and addresses of two (2) or more physicians who have the necessary information to report the employe's physical and mental condition. *The employe shall also submit a description of the job from which he received his last pay;*

(b) *The employer shall submit a description of the job for which the employe was last paid;*

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employe's physicians with the request that the documents be filed with the board;

(d)[~~(c)~~] The cost of a medical examination shall be paid by the employe. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office;

(e)[~~(d)~~] The board shall select *a* [~~two (2)~~] medical *examiner* [~~examiners~~] who shall evaluate the medical evidence submitted by the employe's physician. The *examiner* [~~examiners~~] shall recommend that disability retirement be approved, or that disability retirement be denied. *If the medical examiner recommends denial of disability benefits, the board shall submit the member's application to two (2) additional medical examiners. Both of the additional medical examiners must recommend approval of disability benefits to overturn the original recommendation* [~~A third medical examiner shall review the medical evidence when necessary to provide a consensus if the recommendations of the first two (2) medical examiners do not agree~~];

(f)[~~(e)~~] If the medical examiners recommend that the employe be approved for disability retirement, the general manager shall proceed to make retirement payments in accordance with the retirement plan selected by the employe;

(g)[~~(f)~~] If the medical examiners recommend that the employe be denied disability retirement, the general manager shall notify the board and the employe of this recommendation. *The employe shall have one hundred twenty (120) days to submit additional medical information to the initial reviewer or to appeal his denial for disability benefits by one (1) of the following means:*

1. The employe may request a hearing before the disability appeal committee which shall consist of the initial medical examiner, legal counsel and a medical examiner who has not previously denied the application. The employe may be accompanied at this hearing by his own legal counsel and spouse or other individual to present a fifteen (15) minute appeal. After the employe has presented his appeal, the appeal committee may request such information as it deems necessary and shall notify the employe in writing of its final decision;

2. The employe may file suit in the Franklin Circuit Court. [~~The employe shall have the opportunity of furnishing additional medical evidence of total and permanent disability and any such additional evidence shall be submitted to the medical examiners. The additional medical information shall be submitted within one hundred and twenty (120) days after notification by the general manager. If additional information is not submitted within one hundred and twenty (120) days, the disability request will be voided;~~

~~(g) If the medical examiners recommend that the employe be denied disability retirement, the employe shall have one hundred and twenty (120) days in which to file an appeal of the medical examiners' decision in the Franklin Circuit Court.~~] No new or additional evidence shall be introduced in the Franklin Circuit Court, and the court shall hear the case upon the record as attested;

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(3) Notwithstanding the foregoing provisions of this section the board is hereby authorized to pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners.

Section 43. KRS 61.595 is amended to read as follows:

(1) Effective August 1, *1988* [~~1986~~], upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and *nine-tenths (1.9%)* [~~eighty-five hundredths percent (1.85%)~~] of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

SECTION 44. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Effective August 1, 1988, reduction factors to be applied to determine immediate annuity equivalent to annuity deferred to normal retirement age under KRS 16.577, 16.578, 61.595, 61.640 and 61.680 shall be as provided in Table G, unless the provisions of subsections (2) through (6) of this section are applicable and result in a higher percentage payable.

(2) A SPRS, CERS hazardous or KERS hazardous duty member who is age fifty (50) or older and would attain twenty (20) years of service, fifteen (15) years of which would be current service, prior to age fifty-five (55), if his employment had continued, shall have his retirement benefit computed based on the appropriate factors as follows:

TABLE A

Years Required to Complete 20 Years Service	*Percentage Payable*
1	*94.5%*
2	*89.0%*
3	*83.5%*
4	*78.0%*
5	*72.5%*

(3) A KERS or CERS non-hazardous member who is age fifty-five (55) or older and would attain thirty (30) years of service, fifteen (15) years of which would be current service, prior to age sixty-five (65) if employment were continued, shall have benefits computed using the appropriate factor as follows:

TABLE B

Years Required to Complete 30 Years Service	*Percentage Payable*
0	*100.0%*
1	*98.0%*
2	*96.0%*
3	*93.0%*
4	*89.0%*
5	*84.0%*
6	*80.0%*
7	*76.0%*
8	*72.0%*
9	*68.0%*
10	*64.0%*

(4) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) with twenty-five (25) or more years of service, at least fifteen (15) years of which are current service, shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	*Percentage Payable*
0	*100.0%*
1	*98.0%*
2	*96.0%*
3	*93.0%*
4	*89.0%*
5	*84.0%*

(5) A KERS or CERS non-hazardous member with less than twenty-five (25) years of service who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on TRS, SPRS, CERS hazardous or KERS hazardous early retirement eligibility, and who would have attained thirty (30) or more years of service, fifteen (15) years of which would be current service, on or before reaching his sixty-fifth birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table B based on the number of years required to complete thirty (30) years of service and multiplying this result by the percentage payable as determined from Table D based on the member's age at the time of death or early retirement.

TABLE D

Years Prior to Age 55	*Percentage Payable*
1	*97.0%*
2	*94.0%*
3	*91.0%*
4	*88.0%*
5	*85.0%*
6	*82.0%*
7	*79.0%*
8	*76.0%*
9	*73.0%*
10	*70.0%*

(6) A SPRS, CERS hazardous or KERS hazardous member who dies prior to age fifty (50) and would have attained twenty (20) or more years of service fifteen (15) of which would be current service, on or before reaching his fifty-fifth birthday, if employment were continued, shall have benefits payable as determined from Table E based on the number of years required to complete twenty (20) years of service multiplied by the percentage payable as determined from Table F based on the member's age at the time of death.

TABLE E

Years Required to Complete 20 Years Service	*Percentage Payable*
0	*100.0%*
1	*95.0%*
2	*90.0%*
3	*85.0%*
4	*80.0%*
5	*75.0%*
6	*71.0%*
7	*67.0%*
8	*63.0%*
9	*59.0%*
10	*55.0%*

TABLE F

Years Prior to Age 55	*Percentage Payable*
1	*97.0%*
2	*94.0%*
3	*91.0%*
4	*88.0%*
5	*85.0%*
6	*82.0%*
7	*79.0%*
8	*76.0%*
9	*73.0%*
10	*70.0%*

Table G

Early Age	*Normal Retirement Age*	
	65	*55*
64	*98.0%*	
63	*96.0%*	
62	*93.0%*	
61	*89.0%*	
60	*84.0%*	
59	*80.0%*	
58	*76.0%*	

57	*72.0%*	
56	*68.0%*	
55	*64.0%*	
54	*59.7%*	*94.5%*
53	*55.7%*	*89.0%*
52	*52.2%*	*83.5%*
51	*48.9%*	*78.0%*
50	*45.9%*	*72.5%*
49	*43.1%*	*68.8%*
48	*40.5%*	*65.2%*
47	*38.3%*	*61.7%*
46	*36.3%*	*58.2%*
45	*34.7%*	*54.7%*
44	*33.3%*	*51.3%*
43	*32.0%*	*47.9%*
42	*31.0%*	*44.9%*
41	*30.0%*	*42.1%*
40	*29.2%*	*39.5%*
39	*28.4%*	*37.1%*
38	*27.7%*	*34.9%*
37	*27.0%*	*33.0%*
36	*26.2%*	*31.3%*
35	*25.5%*	*29.9%*
34	*24.7%*	*28.7%*
33	*24.0%*	*27.6%*
32	*23.3%*	*26.7%*
31	*22.7%*	*25.8%*
30	*22.1%*	*25.1%*
29	*21.5%*	*24.4%*
28	*20.9%*	*23.8%*
27	*20.3%*	*23.2%*
26	*19.7%*	*22.5%*
25	*19.1%*	*21.9%*

The member's exact age in years and months shall be determined and the above factors shall be used to extrapolate in order to determine the appropriate factors.

(7) Benefits paid in the event of death prior to retirement shall be reduced pursuant to this section and further reduced as required by KRS 61.640.

HB 488, AN ACT relating to the Kentucky public employes deferred compensation system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.245 is amended to read as follows:

(1) The system shall be administered by a board of trustees composed of five (5) members, who shall be as follows:

(a) Commissioner of insurance, ex officio;

(b) Secretary, finance cabinet, ex officio;

(c) Commissioner of personnel, ex officio;

(d) Two (2) members appointed by the governor of the Commonwealth. Of these two (2) members, it is recommended that one (1) be the general manager of Kentucky retirement systems.

(2) The members of the board appointed by the governor shall serve for a period of four (4) years and the ex officio members of the board shall serve only for the period of their term of office.

(3) Any vacancy which may occur shall be filled in the same manner provided for the selection of the particular member for a full term. Vacancies shall be filled for the unexpired term only.

(4) Membership on the board of trustees shall not be incompatible with any other office unless a

constitutional incompatibility exists, and no member shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(5) Board members who do not otherwise receive a salary or compensation from the state treasury shall receive a per diem of forty-five dollars ($45) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state regulations and standards applicable to state employes.

(6) The board shall meet at least once in each quarter of the year, and may meet in special session upon the call of the chairman. It shall elect a chairman and a vice-chairman. A majority of the members shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the members present.

(7) *The department of personnel shall perform the administrative functions of the board, which shall be attached to the department for purposes of administration.* The board may, but is not limited to the following actions:

(a) [~~Appoint or contract for the services of an executive secretary as provided in KRS 12.050 and fix his compensation. The executive secretary shall be the chief administrative officer of the board;~~

~~(b)~~] Appoint such [~~other~~] employes as it deems necessary and fix the compensation for all employes of the board, subject to the approval of the commissioner;

(b)[~~(c)~~] Require such employes as it thinks proper to execute bonds for the faithful performance of their duties;

(c)[~~(d)~~] Establish a system of accounting;

(d)[~~(e)~~] Contract for such services as may be necessary for the operation or administration of deferred compensation plans authorized in KRS 18A.230 to 18A.275, including annual audits;

(e)[~~(f)~~] Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 18A.230 to 18A.275.

(8) All employes of said board shall serve during its will and pleasure.

(9) The attorney general, or an assistant designated by him, may act as legal adviser and attorney for the board. The board may also appoint legal counsel in accordance with KRS Chapter 12.

(10) The board shall prepare an annual financial report showing all receipts, disbursements, assets and liabilities and shall submit a copy to the governor and legislative research commission. All board meetings and records shall be open for inspection by the public.

Section 2. KRS 18A.250 is amended to read as follows:

(1) Subject to the approval of the board of trustees of the Kentucky state public employes deferred compensation system, the *department of personnel* [~~finance cabinet~~] shall establish *and maintain* a deferred compensation plan for the employes of the state of Kentucky. Participation in such plan shall be by a specific written agreement between such employes and the state and shall provide for the deferral of such amount of compensation as requested by the employe. Participating employes must authorize that such deductions be made from their wages for the purpose of participation in such program. Amounts so deducted shall be deposited in the state treasury to the credit of the trust fund.

(2) The board is directed to develop and obtain, for the benefit of employes, a qualified employe plan that includes a qualified cash or deferred arrangement as described in Section 401(K)(2) of the Internal Revenue Code. The plan shall be in addition to other plans offered by the board, and shall be offered to employes upon receipt of appropriate approval of the internal revenue service or on January 1, 1985, whichever occurs later.

Section 3. KRS 42.016 is amended to read as follows:

The following corporate bodies and instrumentalities of the Commonwealth shall be attached to the office of the secretary for administrative purposes and staff services:

(1) Financial disclosure review commission;

(2) State property and buildings commission;

(3) Kentucky pollution abatement authority;

(4) Capital plaza authority;

(5) Kentucky savings bond authority;

(6) County officials compensation board;

(7) [~~Kentucky public employes deferred compensation board;~~

~~(8)~~] Kentucky turnpike authority;

(8)[~~(9)~~] State investment commission;

(9)[~~(10)~~] Kentucky housing corporation; and

(10)[~~(11)~~] Governmental services center.

Section 4. The General Assembly hereby confirms the reorganization effected by Executive Order 87-719, transferring the Kentucky Public Employes Deferred Compensation System and Board from the Finance and Administrative Cabinet to the Department of Personnel.

HB 492, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Reorganization Order 86-978, which transferred the water distribution and treatment systems for public swimming from the Natural Resources and Environmental Protection Cabinet to the Cabinet for Human Resources; and renamed the Division of Air Pollution Control the Division of Air Quality.

HB 517, AN ACT relating to Kentucky state police retirement benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) All persons who become sworn officers of the Kentucky state police after the effective date of this Act shall have their final compensation calculated as specified in KRS 16.505(9) except that their creditable compensation used to determine final compensation shall be based on a salary with a permanent rank of captain, lieutenant, sergeant or trooper or a combination of such ranks representing his final compensation under KRS 16.505(9).

(2) Even though the officers with a temporary rank effected by this Act may receive a higher level of compensation, their final compensation shall be calculated based on the level of creditable compensation that they received, prior to them attaining a temporary rank, plus any raises they would have received if they would have maintained their highest permanent rank held prior to their receiving a temporary rank.

(3) All officers affected by this Act shall contribute seven percent (7%) of their creditable compensation to the retirement fund based on their last permanent rank held before receiving a temporary rank.

Section 2. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the state police retirement system created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky retirement systems;

(3) "Employer" or "state police" means the department of state police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employe subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employe contributions deducted except as otherwise provided in KRS 61.555;

(5) "Prior service" means the number of years and completed months of employment as an employe prior to July 1, 1958, for which creditable compensation was paid to the employe by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(8) "Creditable compensation" means all salary and wages paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4); living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other such items as are determined by the board shall be excluded;

(9) "Final compensation" at any time means the creditable compensation of a member during the five (5) fiscal years he was paid at the highest average monthly rate, *except for members employed after the effective date of this Act who shall be governed by the provisions of Section 1 of this Act,* divided by the number of months of service credit during such five (5) year period, multiplied by twelve (12); such five (5) years may be fractional, and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 16.545(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: one thousand nine hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of such actuarial tables as are adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employe in accordance with the personnel policy of the department of state police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday,

except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959. A member of the state police retirement system, a member of the county employes retirement system or a member of the Kentucky employes retirement system covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or partial disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student, as defined in the federal Social Security Act, who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Disability ratio" means that percentage determined by the board as being applicable to the degree of disability suffered or incurred by a member;

(20) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of duty;

(21) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(22) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(23) "Regular full-time officers" means the occupants of positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time; and

(24) "Hazardous disability" as used in KRS 16.510 to 16.652 means such disability as results in an employe's total incapacity to continue as an employe in a hazardous position, but such employe is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit.

Section 3. KRS 16.545 is amended to read as follows:

(1) Except for members over age fifty-five (55) on July 1, 1958, who shall not be required to contribute, *and except for members provided for in this Act,* each member shall, commencing on July 1, 1968, contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation.

(2) The employer shall cause to be deducted from the compensation of each member for each and every payroll period subsequent to July 1, 1958, the contributions payable by such member as provided in KRS 16.510 to 16.652.

(3) Every member shall be deemed to consent to deductions made as provided herein; and the payment of salary or compensation less such deduction shall be a full and complete discharge of all claims for services rendered by such person during the period covered by such payment, except as to any benefits provided by KRS 16.510 to 16.652.

(4) Each employer shall, solely for the purpose of compliance with section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). These contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no

option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 16.510 to 16.652 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

HB 557. AN ACT relating to the personnel board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.070 is amended to read as follows:

(1) The board shall annually elect one (1) of its members chairman and one (1) of its members vice-chairman.

(2) The board shall meet at such time and place as shall be specified by call of the chairman. At least one (1) meeting shall be held each month.

(3) All meetings shall be open to the public as provided in KRS *61.805* [~~61.870~~] to *61.850* [~~61.884~~]. Any head of the department or agency employing an elected member of the board or any other person shall not prohibit him from attending meetings of the board, conducting the business of the board, influence or attempt to influence any decision made by that person, discipline the individual for attending the meeting; or, take any other action inimical to the interests of the employe or his family. Any person violating the provisions of this subsection shall be subject to the provisions of KRS 18A.990.

(4) *At least seven (7) days in advance of each regular meeting,* notice [~~of each regular meeting~~] shall be given in writing to each member of the board by the executive director *and the executive director shall post a notice in each building owned or leased by the state which houses at least five hundred (500) employes* [~~at least seven (7) days in advance of the meeting~~]. Four (4) voting members shall constitute a quorum for the transaction of business. The board shall keep records and minutes of its business and official actions.

(5) All records of the board shall be public records and open to public inspection as provided in KRS 61.870 to 61.884.

HB 609. AN ACT relating to the department for libraries and archives.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.240 is amended to read as follows:

(1) In the department for libraries and archives there shall be a state board for the certification of librarians, composed of the state librarian and five (5) members appointed by the governor from a list submitted by the board of directors of the Kentucky library association. Two members shall be full-time professional librarians in active public library work, two shall be public library trustees and one shall be a professional librarian from a department or school of library science in a state university.

(2) The term of office of each appointive member shall be four (4) years. The first appointive member of the board shall be appointed for terms beginning July 1, 1938; one for a term of one (1) year; one (1) for a term of two (2) years; one (1) for a term of three (3) years; and two (2) for terms of four (4) years. Vacancies shall be filled by appointment for the unexpired terms in the same manner as original appointments are made. The members shall receive [~~twenty-five dollars ($25.00) per day for each meeting attended and~~] reimbursement for actual and necessary expenses[~~,~~] incurred in attending meetings.

(3) The board shall hold at least one (1) meeting each year at a time fixed by the board, and such special meetings as may be determined by the board. A chairman and secretary shall be elected at each annual meeting to serve during the ensuing year.

Section 2. KRS 173.810 is amended to read as follows:

(1) The Kentucky state advisory council on libraries is hereby created and shall be composed of twenty-one (21) members, appointed by the governor for a term of four (4) years, except that of the twenty-one (21)

members initially appointed, six (6) shall serve terms of four (4) years, five (5) shall serve terms of three (3) years, five (5) shall serve terms of two (2) years and five (5) shall serve terms of one (1) year. The governor of the Commonwealth of Kentucky shall appoint from this membership a chairman and co-chairman to serve for periods of two (2) years each. The council shall be attached to the cabinet for education and the arts for administrative purposes.

(2) Of the twenty-one (21) members, four (4) shall represent public libraries, two (2) shall represent school libraries, two (2) shall represent college or university libraries, two (2) shall represent special libraries, two (2) shall represent institutional libraries, two (2) shall represent the blind and physically handicapped and seven (7) members, at least one (1) of whom shall be representative of disadvantaged persons, shall represent library users.

(3) Vacancies shall be filled by the governor in the same manner as initial appointments are made.

(4) Members of the Kentucky state advisory council on libraries shall [~~receive twenty-five dollars ($25) per day for each meeting attended and shall~~] be compensated for actual and necessary expenses.

(5) The council shall be the state advisory council on libraries for the purposes of Section 3(8) of the Federal Library Services and Construction Act.

HB 636, AN ACT relating to activities in competition with private enterprise.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, an "activity in competition with private enterprise" means an activity which:

(a) Is undertaken by a state agency, institution, political subdivision, or entity that is funded, controlled, or supported in whole or in part from any state revenues; and

(b) Can be performed by an existing private enterprise situated within the Commonwealth of Kentucky.

(2) Except as otherwise provided in this Act, and notwithstanding any other provisions of law, it shall be the policy of the Commonwealth that no state agency, institution, or political subdivision supported in whole or part by any state revenues shall engage in any activity which is in competition with private enterprise unless the agency, institution or political subdivision can demonstrate that there is an overriding or compelling public interest served by the Commonwealth's provision of the service. Examples of activities provided by the Commonwealth which may carry an overriding or compelling public interest include certain aspects of the criminal justice system; educational services of various kinds; certain services provided by the state parks department; activities and services provided by the state fair board; services provided by the department for the blind; programs of the Kentucky development finance authority; and health services such as those provided by state owned or operated hospitals.

(3) (a) The governor shall appoint a committee of five (5) citizens of the Commonwealth with staff assistance provided by the secretary of the public protection and regulation cabinet, which shall determine, upon petition by any person directly affected by competition with a state agency, institution, or political subdivision whether said agency, institution, or political subdivision is in competition with private enterprise.

(b) It is recommended that the committee be composed of representatives of the executive branch, the legislative branch, the judicial branch, the Kentucky chamber of commerce, and a business person whose business is within the Commonwealth of Kentucky.

(4) If, after a hearing at which all parties have been afforded an opportunity to present evidence, the committee finds that the agency, institution, or political subdivision is engaged in an activity in competition with private enterprise, they shall direct the secretary to issue an order directing the agency, the institution, or political subdivision to terminate the activity unless they also find that:

(a) Cessation of the activity by the agency, institution, or political subdivision will create a bona fide

emergency;

(b) The cost of the service from private enterprise will be substantially greater;

(c) Private enterprise cannot adequately provide the needed service; or

(d) Cessation of the activity will cause irreparable harm or loss of substantial invested funds to the Commonwealth.

(5) The committee shall submit their decision along with written findings within twenty (20) days regarding their decision to authorize or terminate the activity of the agency or institution and shall make available copies to all parties in interest.

(6) An appeal from an order of the secretary of public protection and regulation may be taken to the circuit court where the petitioner does business or to the Franklin Circuit Court.

(7) Activities of a state agency, institution, or political subdivision which were undertaken prior to, and are in operation on the effective date of this Act, and which are found under this Act to be in competition with private enterprise and ordered terminated, may continue until the expiration date of any contract which would be adversely affected by the cessation of the activity, or if the activity is not under a contract then the activity shall be terminated no later than six (6) months after the effective date of this Act.

(8) If a state agency, institution, or political subdivision of the Commonwealth demonstrates an overriding or compelling public interest for the provision of any activity in competition with private enterprise, it nevertheless shall be the policy of the Commonwealth to open bidding to the private sector for the provision of that activity.

(9) If a state agency, institution, or political subdivision is authorized to engage in an activity in competition with private enterprise, it shall be the policy of the Commonwealth to set a fee or charge a price for that activity which shall include consideration of:

(a) The fair market value of that activity; and

(b) The actual costs incurred in engaging in the activity, including the costs and value of labor, the fair market rental value of any real estate used by the activity, debt service, equipment, overhead, and other direct and indirect related expenses. Insofar as appropriate or deemed expedient in order to serve the public interest, fees or prices charged for public activities shall reflect the fair market value or the actual costs incurred.

(c) A state agency, institution, or political subdivision shall provide to the secretary of public protection, on an annual basis, a separate profit and loss accounting for each activity authorized and conducted under subsection (9) of this section. This information shall be available to the general public.

(10) No later than September 1 of each odd numbered year, the secretary shall submit a report on government competition with private enterprise to the legislative research commission and the governor. The report shall include recommendations concerning whether the competitive government activities identified and reviewed by the secretary should be continued.

The Committee Substitute to **HB 636** is as follows:

HB 636, AN ACT relating to activities in competition with private enterprise.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The primary mission of state universities and colleges in the Commonwealth shall be the creation and dissemination of knowledge. Kentucky's public institutions of higher education shall be mindful that in providing retail goods and services for fees they may be unfairly competing with local businesses or other Kentucky private enterprise.

(2) In this Act it is the intent of the general assembly to:

(a) Define legitimate purposes and means under which retail commercial activities by public institutions of higher education may or, in some cases, shall be approved; and

(b) Establish a mechanism for review of such activities through a committee located in each university community.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, an activity which is "unfair retail competition" with private enterprise means a retail activity which:

(a) Is undertaken by a state university or college that is funded, controlled, or supported in whole or in part from any state revenues;

(b) Can be performed by an existing private enterprise situated within the Commonwealth of Kentucky; and

(c) Does not serve a compelling public interest.

(2) Notwithstanding any other provisions of law, it shall be the policy of the Commonwealth that no state university or college supported in whole or part by any state revenues shall engage in any retail activity which is unfair retail competition with private enterprise.

(3) (a) The governor shall appoint a review committee of seven (7) citizens of the Commonwealth in each university community which shall determine, upon petition by any person or trade association directly affected by unfair retail competition with a state university or college, whether the university or college is in unfair retail competition with private enterprise. The committee appointed to serve the university of Kentucky shall also serve the community college system. The members of each committee shall serve staggered terms as determined by the governor. No one (1) term shall exceed four (4) years.

(b) The committee shall be composed and appointed as follows:

1. Five (5) members shall be selected from the business community from a list of eight (8) nominees submitted by the chamber of commerce in the community where the university is located;

2. Two (2) members shall be selected from the university or college faculty or staff from a list of four (4) names submitted by the president of the university; and

(c) The local chamber of commerce shall be requested to provide staff assistance to the committee.

(4) The members of the review committee, who shall serve without compensation, shall schedule a meeting within fourteen (14) days from the time of their appointments and shall elect a chairmanfrom their membership.

(5) Upon receipt of a petition, the review committee shall within thirty (30) calendar days conduct a hearing at which time the petitioner shall present evidence of unfair retail activity being carried out by a state university or college.

(6) Following the presentation by the petitioner, a representative of the state university or college shall be offered equal opportunity to defend its engagement in the particular retail activity under review.

(7) If, after a hearing at which all parties have been afforded an opportunity to present evidence, the committee finds that the university or college is engaged in unfair retail activity, it shall issue an order directing the university or college to terminate that retail activity.

(8) Unfair retail activities of a university or college which were undertaken prior to, and are in operation on the effective date of this Act, and which are found under this Act to be in unfair retail competition with

private enterprise and ordered terminated, may continue until the expiration date of any contract which would be adversely affected by the cessation of the activity; or if the unfair retail activity is not under a contract, the activity shall be terminated no later than six (6) months after the effective date of this Act.

(9) If, after a hearing as provided herein, the committee finds that a retail activity can be performed by an existing private enterprise situated within the Commonwealth of Kentucky but that a state university or college has demonstrated a compelling public interest for its provision of that activity, the committee shall make a further finding as to whether open bidding to the private sector for the provision of that retail activity is in the public interest. If the committee finds that open bidding to the private sector is in the public interest, it may issue an order directing the university or college to conduct open bidding for provision of that retail activity.

(10) If, after a hearing as provided herein, the committee finds that a retail activity can be performed by an existing private enterprise situated within the Commonwealth of Kentucky but that a state university or college has demonstrated a compelling public interest for its provision of that activity, it shall be the policy of the Commonwealth that the university or college shall set a fee or charge a price for that retail activity which shall include consideration of:

(a) The fair market value of that retail activity; and

(b) The actual costs incurred in engaging in the retail activity, including the costs and value of labor, the fair market rental value of any real estate used by the activity, debt service, equipment, overhead, and other direct and indirect related expenses. Insofar as appropriate or deemed expedient in order to serve the public interest, fees or prices charged for public retail activities shall reflect the fair market value or the actual costs incurred.

(c) A state university or college shall provide to the committee on an annual basis, a separate profit and loss accounting for each retail activity authorized and conducted under this subsection. This information shall be available to the general public.

(11) The committee shall submit its decision along with written findings of fact within twenty (20) days and shall make available copies to all parties in interest.

(12) No later than September 1 of each odd numbered year, each committee shall submit a report on university retail competition with private enterprise to the legislative research commission and the governor. The report shall include recommendations concerning whether the competitive government retail activities reviewed by the committees should be continued.

The Committee Title Amendment to **HB 636** is as follows:

Amend printed copy of Committee Substitute to **HB 636** by changing the title to read:

"AN ACT relating to activities in unfair retail competition with private enterprise."

HB 658, AN ACT relating to the Kentucky River.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.700 is amended to read as follows:

(1) The general assembly declares that based upon an implied contract between the Commonwealth and the U.S. government through the secretary of the U.S. army and his predecessors, the validity of which is evidenced by over one hundred (100) years of performance by the federal government, it is the responsibility of the U.S. Army Corps of Engineers and the U. S. Congress to operate and maintain the locks and dams on the Kentucky River and therefore urges the Congress and the corps to provide the funds necessary to properly maintain the locks and dams, the condition of which the general assembly finds is deteriorating.

(2) The general assembly recognizes the historic importance of the Kentucky River locks and dams in providing a source of clean water supply for several hundred thousand citizens of the Commonwealth. Therefore,

if the Congress and the corps fail to fulfill their responsibility for the Kentucky River locks and dams as stated in subsection (1) of this section and the Commonwealth thereby must assume ownership of the locks and dams, it shall be the public policy of the Commonwealth to protect the health and welfare of the citizens dependent upon this system of locks and dams for their source of clean water, and to that end the Commonwealth shall provide for the proper maintenance of the Kentucky River locks and dams through the Kentucky River Authority. *It shall be the public policy of the Commonwealth that the Commonwealth shall assume ownership of all U.S. Army Corps of Engineers property, both real and personal, on or adjacent to the Kentucky River when the Corps elects to dispose of such property.*

The Committee Amendment No. 1 to **HB 658** is as follows:

Amend printed copy of **HB 658** on page 2, line 10, after the word "*River*" by deleting the word "*when*" and inserting in lieu thereof the words "*after ninety (90) days from the date on which*"; and

on page 2, line 11, after the word "*Corps*" by deleting the word "*elects*" and inserting in lieu thereof the words "*obtains final authority*"; and

on page 2, line 11, after the period, by inserting the following: "*During that ninety (90) day period, the Commonwealth shall publish legal notice of its intention to assume ownership of the property.*"

HB 703, AN ACT relating to the Auditor's Scholarship Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the auditor's office a scholarship program for economically disadvantaged and minority students planning to major in accounting at a Kentucky public institution of higher education.

(2) Up to four (4) students each year shall be selected by the auditor as eligible to receive a scholarship for up to four (4) years while pursuing an accounting degree. Each individual scholarship shall be subject to review annually.

(3) The annual scholarship amount shall be set by the auditor in an amount required to cover the average cost of room, board, tuition, and fees at Kentucky public institutions, as well as living expenses. In addition, the scholarship shall include full-time summer employment with the auditor's office.

(4) Upon receiving their accounting degree, recipients of the scholarship shall be required to work one (1) year for the auditor's office for each year they received the scholarship.

(5) Recipients failing to complete an accounting program or failing to fulfill the service requirement shall become liable to the auditor's office for the sum of all scholarship funds received plus interest for the entire period. The rate of interest shall be determined when the scholarship is awarded. The debt may be deferred for cause by the auditor and a schedule for repayment may be established.

(6) The auditor's office shall execute appropriate contracts and promissory notes with scholarship recipients.

Section 2. To carry out the purposes of this Act, the auditor shall allocate sufficient agency funds.

The Committee Substitute to **HB 703** is as follows:

HB 703, AN ACT relating to the Auditor's Scholarship Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created in the auditor's office a scholarship program for economically disadvantaged students planning to major in accounting at Kentucky institutions of higher education agreeing to provide matching funds.

(2) Up to four (4) students each year shall be selected by the auditor as eligible to receive a scholarship for up to four (4) years while pursuing an accounting degree. Each individual scholarship shall be subject to review annually.

(3) The annual scholarship amount shall be set by the auditor in an amount required to cover the average cost of room, board, tuition, and fees at Kentucky public institutions, as well as living expenses. In addition, the scholarship shall include full-time summer employment with the auditor's office.

(4) Upon receiving their accounting degree, recipients of the scholarship shall be required to work one (1) year for the auditor's office for each year they received the scholarship.

(5) Recipients failing to complete an accounting program or failing to fulfill the service requirement shall become liable to the auditor's office for the sum of all scholarship funds received plus interest for the entire period. The rate of interest shall be determined when the scholarship is awarded. The debt may be deferred for cause by the auditor and a schedule for repayment may be established.

(6) The auditor's office shall execute appropriate contracts and promissory notes with scholarship recipients.

Section 2. To carry out the purposes of this Act, the auditor shall allocate sufficient agency funds.

HB 719. AN ACT relating to property tax administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.140 is amended to read as follows:

(1) The cabinet shall requisition the finance and administration cabinet to furnish to local officials an adequate supply of forms for listing property for taxation and [~~such~~] other forms and blanks [~~so prescribed as the law requires~~] the state *is required by law* to provide. The books and records prescribed for use by property valuation administrators, county clerks, sheriffs and other county tax collectors shall be *designed* [~~designated~~] to promote economical operation, adequate control, availability of useful information, and safekeeping. The forms prescribed for listing intangible property shall be *designed* [~~designated~~] to secure a detailed list *to provide convenient checking of valuations* [~~so that valuations may conveniently be checked~~] with available sources of information, and *to safeguard the* [~~so that the~~] confidential character of the intangible property assessment [~~may be safeguarded~~].

(2) The cabinet may confer with, advise and direct local officials respecting their duties relating to taxation, and shall supervise the officials in the performance of those duties. *The cabinet shall provide to the property valuation administrators up-to-date appraisal manuals outlining uniform procedures for appraising all types of real and personal property assessed by them. The property valuation administrators shall follow the uniform procedures for appraising property outlined in these manuals. The cabinet shall maintain and make accessible to all property valuation administrators a statewide commercial real property comparative sales file.* The cabinet, by authorized agents, may visit local governmental units and officers for investigational purposes, when [~~it seems reasonably~~] necessary.

(3) *The revenue cabinet shall conduct a biennial performance audit of each property valuation administrator's office. This audit shall include, but shall not be limited to, an inspection of maps and records, an appraisal study of real property, and an evaluation of the overall effectiveness of the office. Each property valuation administrator's office shall provide the cabinet with access to its files, maps and records during the audit. The cabinet shall prepare a report on assessment equity and quality for each county based on the performance audit, and shall provide a copy to the legislative research commission.*

(4) The cabinet shall arrange for an annual conference of the property valuation administrators, or the county officers whose duty it is to assess property for taxation, to give them systematic instruction in the fair and just valuation and assessment of property, and their duty in connection therewith. The conference shall continue not more than five (5) days. *The* [~~Such~~] officers shall attend and take part in the conference,

unless prevented by illness or other reason satisfactory to the secretary. Any [~~such~~] officer wilfully failing to attend the conference may be removed from office by the circuit court of the county *where* [~~wherein~~] he was elected. If the officer participates in all sessions of the conference, one-half (1/2) of his actual and necessary expenses in attending the conference shall be paid by the state, and the other half shall be paid by the county from which he attends. Each officer shall *prepare* [~~make out~~] an itemized statement showing his actual and necessary expenses, and if it is found regular and supported by proper receipts it shall be approved by the cabinet before payment.

Section 2. KRS 132.275 is amended to read as follows:

Each [~~gas, water,~~] electric *utility* [~~light and telephone~~] company operating in a county [~~containing a city of the first class~~] shall furnish *monthly* to the property valuation administrator a list showing the names and addresses of all persons, firms, or corporations receiving *initial* service *for new buildings, new or relocated mobile homes, and other new or relocated structures during the preceding month. Each building, mobile home, or other structure shall be identified by property address, or property location in those instances where the address is insufficient* [~~from such utilities, and thereafter on every Monday, said utility companies shall furnish to said property valuation administrator a report containing the names of all persons, firms, or corporations who have, during the week immediately preceding, ordered gas, water, electric light or telephone service to be installed, removed or discontinued, with the addresses at which the services were ordered to be installed, removed or discontinued~~]. *The* [~~Such~~] information shall be treated as confidential and shall be used by *the* [~~said~~] property valuation administrator only for the purpose of making accurate records.[~~;~~] *The* [~~Provided, however, That said~~] property valuation administrator shall permit [~~the city assessor of said city of the first class and any~~] other taxing bodies of the various governments to examine *the* [~~said~~] records for official purposes only, and *the* [~~said~~] units of government shall treat *the* [~~said~~] information as confidential.

Section 3. KRS 132.370 is amended to read as follows:

(1) There shall be a property valuation administrator in each county in lieu of a county assessor. *Property valuation administrators shall be state officials and all deputies and assistants of their offices shall be state employes.*

(2) Property valuation administrators shall be elected in the year in which county elections are held and shall enter upon the discharge of the duties of their office on the first Monday in December after their election and continue in office for a period of four (4) years, and until the election and qualification of their successors. Property valuation administrators shall possess the qualifications required by Section 100 of the Constitution and by KRS 132.380 and shall be eligible for re-election.

(3) The property valuation administrators and all deputies and assistants of their offices who qualify as full time employes, shall be eligible for participation in the provisions of KRS 18A.205, 18A.230 to *18A.360* [~~18A.275~~] and 61.510 to *61.705* [~~61.692~~].

(4) A property valuation administrator may be removed from office by the circuit court of his county, upon petition of the cabinet or any taxpayer, for wilful disobedience of any just or legal order of the cabinet, or for misfeasance or malfeasance in office or wilful neglect in the discharge of his official duties, but he or the petitioner may appeal to the Court of Appeals.

Section 4. KRS 132.590 is amended to read as follows:

(1) The compensation of the property valuation administrator shall be based on (1) the area, (2) the population, and (3) the assessed value of property in the county in accordance with the provisions of the following scale, with one (1) point per each ten (10) square miles or fraction thereof of the area of the county; one (1) point per one thousand (1,000) population of the county; one (1) point per million dollars of assessment on the first one hundred (100) million and one-half (1/2) point per million dollars of assessment over one hundred (100) million:

Number of Points		Grade
At Least	But Less Than	Classification
5,000	—	15
1,000	5,000	14

350	1,000	13
300	350	12
225	300	11
150	225	10
125	150	9
100	125	8
—	100	7

Should a property valuation administrator for any reason vacate the office in any year during his term of office, he shall be paid only for the calendar days actually served during the year.

(2) The grade classification system provided in subsection (1) of this section shall in all respects, be equivalent to the grade classification for state employes as established by the department of personnel and subject to the provisions of subsection (4) of this section and be determined on the basis of the total area of the county as determined from information provided by the Kentucky agricultural statistics or other reliable data, the United States Bureau of the Census and the assessment of property subject to state tax as certified by the revenue cabinet, including the amount of assessment on which taxes are deferred under the provisions of the Agricultural and Horticultural Land Act, except that the amount of assessment of livestock and farm machinery shall be excluded in determining the grade classification.

(3) The provisions of this section shall be computed on the 1978 assessment and on each annual assessment thereafter.

(4) Each property valuation administrator shall upon taking office for the first time be placed in the first step in grade and shall annually, effective January 1 after serving no less than twelve months, be advanced one step in grade; except, that any person appointed or elected to fill a vacancy in the office of property valuation administrator shall be eligible for advancement one step in grade effective January 1 following completion of at least six months service. The revenue cabinet is authorized to make grade classification changes corresponding to any approved for cabinet employes in comparable positions so long as such changes do not violate the integrity of the classification system and, except further, subject to availability of funds, that the cabinet may extend cost-of-living increases approved for cabinet employes to the property valuation administrators by advancement in grade.

(5) Deputy property valuation administrators and other authorized personnel likewise may be advanced one step in grade upon completion of twelve (12) months continuous service and given such other benefits relating to reclassification of position or cost-of-living adjustments as are provided in subsection (4) of this section for property valuation administrators.

(6) *Beginning with the 1990-1992 biennium, the revenue cabinet shall prepare a biennial budget request for the staffing of property valuation administrators' offices. An equitable allocation of employe positions to each property valuation administrator's office in the state shall be made on the basis of comparative assessment work units. Assessment work units shall be determined from the most current objective information available from the United States Bureau of the Census and other similar sources of unbiased information. Until that time* the property valuation administrator's office shall be allowed by the state as compensation for deputies, other authorized personnel, and for other authorized expenditures, one and one-quarter cents on each one hundred dollars ($100) of the property assessed, including motor vehicles and the amount of assessment on which taxes are deferred under the agricultural and horticultural land act but exclusive of livestock and farm machinery, on the first two hundred fifty million dollars ($250,000,000) and one cent (1) on each one hundred dollars ($100) of the property assessed over two hundred fifty million dollars ($250,000,000); but the total sum allowed by the state to any property valuation administrator's office as compensation for deputies, other authorized personnel, and for other authorized expenditures shall not exceed the amount fixed by the revenue cabinet. However, each property valuation administrator's office shall be allowed as a minimum such funds that are required to meet the federal minimum wage requirements for *two (2)* [~~one (1)~~] full time *deputies* [~~deputy~~].

(7) Beginning with the 1990-1992 biennium each property valuation administrator shall submit *by June 1 of* each *year for the following* fiscal year to the revenue cabinet a budget *request* for his office which shall be based upon the *number of employe positions allocated to his office under subsection (6) of this section and upon the* [~~state,~~] county and city funds available to his office and show the amount to be expended for deputy and other authorized personnel including employer's share of FICA and state retirement, and other authorized expenses of the office. *The revenue cabinet shall return to each property valuation administrator, no later than July 1, an approved budget for the fiscal year.*

(8) Each property valuation administrator may appoint any persons approved by the revenue cabinet to assist him in the discharge of his duties. Each deputy *shall* [~~must~~] be more than twenty-one (21) years

of age and may be removed at the pleasure of the property valuation administrator. The salaries of deputies and other authorized personnel shall be fixed by the property valuation administrator in accordance with the grade classification system established by the revenue cabinet and shall be subject to the approval of the revenue cabinet. *The department of personnel shall provide advice and technical assistance to the revenue cabinet in the revision and updating of the personnel classification system, which shall be equitable in all respects to the personnel classification systems maintained for other state employes.* Any deputy property valuation administrator employed[~~,~~] or promoted to a higher position may be examined by the revenue cabinet in accordance with standards of the department of personnel, for the position to which he is being appointed or promoted. No state funds available to any property valuation administrator's office as compensation for deputies and other authorized personnel or for other authorized expenditures shall be paid without authorization of the revenue cabinet prior to the employment by the property valuation administrator of deputies or other authorized personnel or the incurring of other authorized expenditures.

(9)[~~(7)~~] Each county fiscal court shall annually appropriate and pay each fiscal year to the office of the property valuation administrator as its cost for use of the assessment, as required by KRS 132.280 an amount determined as follows:

Assessment Subject to
County Tax of:

At Least	But Less Than	Amount
—	$100,000,000	$.005 for each $100 of the first $50,000,000 and $.002 for each $100 over $50,000,000.
$100,000,000	150,000,000	$.004 for each $100 of the first $100,000,000 and $.002 for each $100 over $100,000,000.
150,000,000	300,000,000	$.004 for each $100 of the first $150,000,000 and $.003 for each $100 over $150,000,000.
300,000,000	—	$.004 for each $100.

(10)[~~(8)~~] The total sum to be paid by the fiscal court to any property valuation administrator's office under the provisions of subsection *(9)*[~~(7)~~] of this section shall not exceed the limits set forth in the following table:

Assessed Value of Property Subject to
County Tax of:

At Least	But Less Than	Limit
—	$ 700,000,000	$ 25,000
$ 700,000,000	1,000,000,000	35,000
1,000,000,000	2,000,000,000	50,000
2,000,000,000	2,500,000,000	75,000
2,500,000,000	5,000,000,000	100,000
5,000,000,000	—	175,000

This allowance shall be based on the assessment as of the previous January 1 and shall be used for deputy and other personnel allowance, supplies, maps and equipment, travel allowance for the property valuation administrator and his deputies and other authorized personnel, and other authorized expenses of the office.

(11)[~~(9)~~] Annually, after appropriation by the county of funds required of it by *subsection (9) of this section, and no later than August 1* [~~KRS 132.590(7)~~], the property valuation administrator shall file a claim with the county for that amount of the appropriation specified in his approved budget for compensation of deputies and assistants, including employer's shares of FICA and state retirement, for the fiscal year. The amount so requested shall be paid by the county into the state treasury *by September 1* and shall be expended by the revenue cabinet only for compensation of approved deputies and assistants and the employer's share of FICA and state retirement in the appropriating county. Any funds paid into the state treasury in accordance

with this provision but unexpended by the close of the fiscal year for which they were appropriated, shall be returned to the county from which they were received [~~and shall be subject to the provision of subsection (10) of this section. Each property valuation administrator shall at the end of each month file a claim with the fiscal court for expenses of his office other than personnel incurred during the month which are payable from county funds. The court shall order payment made provided the total of all claims filed with the court does not exceed the total sum available under this section~~].

(12) After submission to the state treasury of the county funds budgeted for personnel compensation under subsection (11) of this section, the fiscal court shall pay the remainder of the county appropriation to the office of the property valuation administrator on a quarterly basis. Four (4) equal payments shall be made on or before September 1, December 1, March 1, and June 1 respectively. Any unexpended county funds at the close of each fiscal year shall be retained by the property valuation administrator except as provided in KRS 132.601(2). During county election years the property valuation administrator shall not [~~be allowed to~~] expend in excess of forty percent (40%) of the allowances available to his office from county funds during the first five (5) months of the fiscal year in which the general election is held.

[~~(10) Any county funds appropriated under the provisions of this section but unexpended by the close of each fiscal year for which such funds are appropriated shall carry over and be added to the amount required to be appropriated for the next fiscal year except that the revenue cabinet may release such funds or any part thereof that the cabinet deems not necessary for operations of the property valuation administrator's office.~~]

(13)[~~(11)~~] The provisions of this section shall apply to urban-county governments. In an urban-county government, all the rights and obligations conferred on fiscal courts by the provisions of this section, shall be exercised by the urban-county government.

(14)[~~(12)~~] When an urban-county form of government is established through merger of existing city and county governments as provided in KRS Chapter 67A, the annual county assessment shall be presumed to have been adopted as if the city had exercised the option to adopt as provided in KRS 132.285, and the annual amount to be appropriated to the property valuation administrator's office shall be the combined amount that is required of the county under this section and that required of the city under KRS 132.285, except that the total shall not exceed one hundred thousand dollars ($100,000) for any urban-county government with an assessment subject to county wide tax of less than three billion dollars ($3,000,000,000), one hundred twenty-five thousand dollars ($125,000) for an urban-county government with an assessment subject to county-wide tax between three billion dollars ($3,000,000,000) and five billion dollars ($5,000,000,000) and two hundred thousand dollars ($200,000) for an urban-county government with an assessment subject to county-wide tax in excess of five billion dollars ($5,000,000,000). For purposes of this subsection the amount to be considered as the assessment for purposes of KRS 132.285 shall be the amount subject to taxation for full urban services.

(15)[~~(13)~~] Notwithstanding the provisions of subsection (1) of this section, any property valuation administrator whose county classification would be reduced from that existing as of June 17, 1978 shall not have his compensation reduced but shall continue to be compensated at his then current salary until such time as an increase in points earned by his county or a cabinet adjustment, under subsection (4) of this section, qualify him for an increase in compensation.

(16)[~~(14)~~] The county classification system provided in subsections (1) and (2) of this section shall in no way affect reclassification approved prior to this enactment nor shall they be construed to affect any future reclassifications provided under subsection (4) of this section.

Section 5. KRS 132.601 is amended to read as follows:

(1) The property valuation administrator of any county may, *after receiving an approved budget from* [~~with the approval of~~] the revenue cabinet *under the provisions of KRS 132.590,* obligate and spend any of the *local* funds accruing to his office under the provisions of KRS 132.590[~~(6) or (7),~~] or KRS 132.285, over and above that actually used in compensating his deputies and assistants, for the purchase of any maps, lists, charts, materials, supplies or equipment, or for other expenses necessary to the proper assessment of property or preparation and maintenance of assessment rolls and records[~~, including the contracting for computer services for the establishment or maintenance of such rolls or records provided, such contract meets the specifications prescribed by the cabinet and the cost of such services are provided for in the budget required to be submitted to the cabinet by the property valuation administrator under the provisions of KRS 132.590(6)~~].

(2) *The property valuation administrator shall maintain a bank account for the management of local funds received by his office under the provisions of KRS 132.590 and 132.285. Beginning with the 1990-1992 biennium, at the end of each fiscal year a cumulative carryover of local funds equivalent to the total annual local appropriation for the ending fiscal year or five thousand dollars ($5,000), whichever is greater, shall be retained. Any funds*

in excess of this amount shall be refunded by the property valuation administrator no later than August 1 to the appropriating local governments in direct proportion to their respective appropriations.

(3) Expenditures made by the office of the property valuation administrator under the provisions of subsection (1) of this section shall be governed by procurement procedures adopted by the fiscal court in the county administrative code required by KRS 68.005. However, after [~~Upon~~] approval of the *annual budget for the office of the property valuation administrator* [~~expenditures~~] provided in *KRS 132.590* [~~subsection (1) of this section~~] by the *revenue* cabinet, the necessity of the expenditure shall not be questioned *by the fiscal court* [~~if funds provided by law are adequate during any fiscal year to meet not only the compensation of deputies and assistants, but also all obligations arising from such expenditures~~]. *The revenue cabinet shall have neither authority nor responsibility in the auditing of expenditures made by the property valuation administrator from locally appropriated funds. The auditor of public accounts shall assume the responsibility.*

Section 6. KRS 132.670 is amended to read as follows:

The revenue cabinet shall prepare detailed maps identifying every parcel of real property within each county of the state [~~by July 1, 1988~~]. Each county shall furnish to the cabinet adequate facilities in the county courthouse in which to work. The revenue cabinet shall prescribe methods and specifications for the mapping of property. Personnel authorized to assist in making property identification maps under this section may be given the same authority as a deputy property valuation administrator. [~~In addition to the state allowance provided to the property valuation administrator's office by KRS 132.590(6), the cabinet may allocate sufficient additional funds from the legislative appropriation for mapping projects to compensate the additional local personnel employed for the mapping project.~~] Locally employed mapping project personnel shall be compensated in the same manner as deputies or assistants in the property valuation administrator's office.

(2) The revenue cabinet shall conduct a biennial review of the quality of maps and ownership records in each county. If, in the first review conducted under these provisions, the maps and records in any county fail to meet the minimum standards established by the cabinet, the cabinet shall assume responsibility for remapping, revision, and updating under the provisions of subsection (1) of this section. Minimum maintenance standards to be followed by each property valuation administrator shall be established by the cabinet.

Section 7. KRS 132.690 is amended to read as follows:

(1) Each parcel of taxable real property or interest therein subject to assessment by the property valuation administrator shall be revalued during each year of each term of office by the property valuation administrator at its fair cash value in accordance with standards prescribed by the revenue cabinet and shall be physically examined no less than once every two (2) years by the property valuation administrator or his assessing personnel. *In accordance with procedures prescribed by the revenue cabinet, the property valuation administrator shall submit an assessment schedule to the cabinet and shall maintain a record of physical examination and revaluation for each parcel of real property which includes, in addition to other relevant information, the inspection dates.*

(2) The right of any individual to appeal the assessment on his property in any year as provided in KRS 133.120 shall in no way be affected by this section.

(3) *If* [~~Should~~] the property valuation administrator *fails* [~~fail~~] to revalue property as required by this section, the revenue cabinet shall have the authority to order an emergency revaluation in the same manner as provided for emergency assessments by KRS 132.660. Any property valuation administrator wilfully violating the provisions of subsection (1) of this section or who refuses to comply with the directions of the revenue cabinet to correct the assessment shall have his compensation suspended by the cabinet and shall be subject to removal from office as provided by KRS 132.370(4) and shall be subject to the provisions of KRS 132.620 and 61.120.

(4) Nothing in this section shall prohibit action by the revenue cabinet under the provisions of KRS 133.150 or 132.660 in any year in which the cabinet determines such action to be necessary.

Section 8. KRS 133.150 is amended to read as follows:

(1) The revenue cabinet shall equalize each year the assessments of the property among the counties. It shall compare the recapitulation of the property valuation administrator's books from each county with the records of sales of land in *the* [~~such~~] county or with *the* [~~such~~] other information that it may obtain from any source and shall determine the ratio of the assessed valuation of the property to the fair cash value. The revenue cabinet shall have power to increase or decrease the aggregate assessed valuation of the property of any county or taxing district thereof or any class of property or any item in any class of property. The revenue cabinet shall fix the assessment of all property at its fair cash value. *If* [~~When~~] the property in any county, or any class of property in any county, is not assessed at its fair cash value, *the* [~~such~~] assessment

shall be increased or decreased to its fair cash value by fixing the percentage of increase or decrease necessary to effect the equalization.

(2) The revenue cabinet shall evaluate each year the quality of property assessments within each county. The cabinet shall develop standards for acceptable coefficients of dispersion for each class of real property. Upon failure of any county or class of property to meet minimum acceptable standards, the revenue cabinet shall either direct the property valuation administrator to make the necessary changes or order an emergency assessment under the provisions of KRS 132.660. If, in the opinion of the revenue cabinet, significant progress toward equalization has not been made by the date of submission of the property valuation administrator's recapitulation, under the provisions of KRS 133.040 the cabinet shall reject the recapitulation until such progress has been achieved.

Section 9. KRS 133.250 is amended to read as follows:

(1) The revenue cabinet shall conduct sales-assessment ratio studies for each county and shall submit *the* [~~such a~~] ratio to each property valuation administrator by September 1 of each year or within thirty (30) days of submission of the property valuation administrator's final recapitulation to the cabinet as provided for in KRS 133.125, whichever date is *later* [~~earlier~~]. *Randomly selected sample appraisals shall be conducted by the revenue cabinet for each class of real property in each county no less than once every two (2) years to supplement sales data used in the assessment ratio study and to verify and enhance the statistical validity of the ratio study in determining measures of central tendency and variation.*

(2) The property valuation administrator shall begin revaluation of property in his county, in preparation for the following year's property assessment, immediately following submission of the final recapitulation to the revenue cabinet as provided for in KRS 133.125.

(3) By January 30 of each year, the revenue cabinet shall cause to be published in the newspaper of largest circulation in each county, a listing of the percentage of fair cash value attainment of real property assessments as calculated by *assessment* [~~sales assessment~~] ratio studies which shall be conducted by the revenue cabinet.

SECTION 10. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The revenue cabinet shall develop and administer a program for the purpose of providing education and training in the technical, legal, and administrative aspects of property tax administration for property valuation administrators, deputy property valuation administrators, and revenue cabinet employes. Courses may be created and taught by revenue cabinet personnel or the cabinet may adopt specific courses offered by appropriate professional organizations.

(2) The revenue cabinet shall develop and administer, in cooperation with the property valuation administrators, a certification program for property valuation administrators, deputy property valuation administrators, and revenue cabinet employes. A professional designation, "certified Kentucky assessor" (CKA), shall be awarded to those individuals successfully meeting the standards established by this program. Minimum requirements shall include one hundred twenty (120) hours of classroom instruction, passage of subject matter examinations, and three (3) years of experience in Kentucky property tax administration. An advanced designation, "senior Kentucky assessor" (SKA), shall be awarded to those individuals successfully completing an additional ninety (90) hours of classroom instruction, passage of subject matter examinations, and an additional two (2) years of experience in Kentucky property tax administration.

The Committee Amendment No. 1 to **HB 719** is as follows:

Amend printed copy of **HB 719** on page 5, line 3, before the word "*state*" by inserting the word, "*unclassified*"

on page 5, line 17, after the word "to," by changing "*18A.360*" to "*18A.355*"

on page 19, line 23, by placing brackets around and striking through "two (2)" and inserting in lieu thereof "*four (4)*"

The Committee Amendment No. 2 to **HB 719** is as follows:

Amend printed copy of **HB 719** on pages 20 through 22, by deleting Section 8 in its entirety; and

on page 22, line 8, by changing "Section 9" to "Section 8"

The Committee Amendment No. 3 to **HB 719** is as follows:

Amend printed copy of **HB 719** on page 3, line 20, through page 4, line 23, delete Section 2 in its entirety, and renumber the sections accordingly.

HB 747, AN ACT relating to the department of information systems.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.029 is amended to read as follows:

(1) There is established a department of state government to be known as the department of information systems. The department shall be a part of the finance and administration cabinet. The department of information systems shall be headed by a commissioner, appointed by the secretary of the finance and administration cabinet, with the approval of the governor. The commissioner shall be responsible to the secretary.

(2) The secretary of the finance and administration cabinet shall appoint, with the approval of the governor, a deputy commissioner of the department of information systems, pursuant to KRS 12.050. The commissioner of information systems, with the approval of the secretary of the finance and administration cabinet, may appoint such principal assistants, pursuant to KRS 12.050, as may be necessary for the development and implementation of policy. The commissioner may employ, pursuant to the provisions of KRS Chapter 18A, such personnel as may be necessary to execute the functions and duties of the department.

(3) *The department of information systems shall provide leadership, policy direction, and technical support to all executive agencies of state government in the application of information technology. The department shall:*

(a) Assure compatibility, portability, and connectivity of Kentucky's information systems; and

(b) Implement necessary management processes to assure full compliance with the Kentucky information resources architecture as adopted by the Kentucky information systems commission.

(4) The department of information systems shall include the following divisions, each of which shall be headed by a director appointed by the secretary with the approval of the governor, pursuant to KRS 12.050:

(a) The division of operations, which shall be responsible for computer operations, including the data center, remote batch entry, data control, on line support, and maintenance of the computer operations facility.

(b) The division of systems support, which shall be responsible for all computer hardware operations, research, development, programming, evaluation, and security systems.

(c) The division of special projects, which shall be responsible for ensuring dependable development and implementation of high priority data processing projects.

(d) The division of data management, which shall be responsible for data base administration, information retrieval and access for all state agencies and all types of software support for internal department development activities.

(e) The division of systems engineering, which shall be responsible for providing development and maintenance of all state agency application systems.

(f) The division of information resources management, which shall be responsible for systems planning and fiscal administration.

(g) The division for statewide financial systems, which shall be responsible for the development and implementation of the uniform and integrated system of accounts including technical support.

(5) The department of information systems may delegate authority to individual state agencies for the performance of departmental and desk top level functions, if the commissioner finds the delegation to be in the best interest of the Commonwealth. All delegations of authority shall:

(a) Be in written form;

(b) Specify the level and scope of functions to be performed; and

(c) Provide notice to the agency receiving delegation of authority, that the delegated authority will be revoked if the commissioner finds that the functions being performed fail to adhere to prescribed criteria or if the

commissioner finds that it is no longer in the best interest of the Commonwealth to continue the agency's delegation of authority.

(6) The department of information systems may provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the commissioner finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan.

[~~(4) There is established within the division for statewide financial systems an accounting principles task force, which shall study and evaluate the Commonwealth's accounting system and develop recommendations and proposals for modifications and changes necessary to be installed in a unified and integrated system of accounts for state government, complying with generally accepted principles as provided in KRS 45.305.~~]

The Committee Amendment No. 1 to **HB 747** is as follows:

Amend printed copy of **HB 747** on page 4, line 13, after the period, by inserting the following:

(7) Nothing in this Act shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the archives and records commission and the department for libraries and archives.

(8) The department may promulgate necessary administrative regulations for the furtherance of this section.

HB 761, AN ACT relating to use of influence by legislators.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.775 is amended to read as follows:

(1) No legislator shall use his influence as a member of the general assembly in any matter which involves a substantial conflict between his personal or private interest and his duties in the public interest.

(2) No legislator shall use his official position or office to obtain financial gain for himself, any members of the legislator's family, or persons with whom the legislator maintains a close economic association.

(3) No legislator shall use or attempt to use his official position to secure or create privileges, exemptions, advantages, contracts or treatment for himself or others in derogation of the public interest at large.

(4) No legislator in order to further his own economic interests, or those of any other person, shall disclose or use confidential information acquired in the course of his official duties.

(5) No legislator shall receive, directly or indirectly, any interest, profits or perquisites arising from the use or loan of public funds in his hands or to be raised through any agency of the general assembly.

(6) No legislator shall act as officer or agent for the commonwealth or any agency in the transaction of any business with himself, or with any corporation, company, association or firm in which he or his spouse has any interest greater than five percent (5%) of the total value thereof.

(7) No legislator shall knowingly himself or [~~by his partners or~~] through any corporation, *company, association, firm, partnership, or other enterprise* [~~which he controls or~~] in which he owns or controls *an interest of* more than five percent (5%) [~~of the stock~~], or by any other person for his use or benefit or on his account, undertake, execute, hold or enjoy, in whole or in part, any contract, agreement, sale or purchase of the value of twenty-five dollars ($25) or more, made, entered into, awarded or granted by any state agency, unless *the* [~~said~~] contract, agreement, sale or purchase was made or let after public notice and competitive bidding.

(8) No legislator shall be in any manner interested, either directly or indirectly, in his own name or in the name of any member of his family or in the name of any other person, association, trust, or corporation, in any contract for the performance of any work in the making or letting or administration of which *the* [~~such~~] legislator may be called upon to act or vote. No legislator shall represent, either as agent or otherwise, any person, association, trust or corporation, with respect to any application or bid for any contract or work in regard to which *the* [~~such~~] legislator may be called upon to act or vote. Any contract made and procured in violation hereof *shall be* [~~is~~] void. For the purposes of this subsection the holding of less than *a* five percent (5%) *interest in any* [~~of the stock of a~~] corporation, *company, association, firm, partnership, or other enterprise shall* [~~is~~] not *be* considered an interest.

HB 855, AN ACT relating to the Office of Investment and Debt Management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.410 is amended to read as follows:

(1) The office for investment and debt management established in KRS 42.400 shall, subject to the provisions of KRS 41.020 to 41.390 and 42.500, have and perform functions and duties as follows:

(a) The analysis and management of short and long-term cash flow requirements.

(b) The maximization of the return on state investments given the cash flow and liquidity requirements.

(c) The coordination and monitoring of cash needs relative to investment and debt activity.

(d) The development of a long-term debt plan including criteria for the issuance of debt and an evaluation of how much total state debt is justified.

(e) The evaluation of revenue projections relative to proposed revenue bond issues.

(f) The responsibility for liaison with the general assembly on all investment and debt matters, including, but not limited to, new bond issues, the status of state debt, and the status of state investments.

(g) *The assessment of a fee for providing the services of paragraph (c) or (h) of this subsection to be deposited in the state treasury.*

(h) When determined by the office to be in the best financial or administrative interest of the Commonwealth, serve as the financial advisor or provide other professional services for the issuance of bonds for all state agencies and debt-issuing authorities.

(i) All other functions of the department relative to state investment and debt management including, but not limited to, the making of debt service payments, the sale of bonds, and staff assistance to the state property and buildings commission and the state investment commission.

(2) *The office for investment and debt management may perform the following functions:*

(a) Serve as financial advisor or provide other professional services to any unit of local government or local debt-issuing authority upon the request of such debt-issuing authority, subject to the availability of sufficient personnel as determined by the office.

(b) Assess a fee for providing the services of paragraph (a) of this subsection to be deposited in the state treasury.

(3) The office for investment and debt management shall render monthly written reports concerning the performance of each investment to the state investment commission.

(4)[~~(3)~~] Nothing in this section shall authorize any act inconsistent with the authority granted the state investment commission by KRS 42.500 and 42.525.

The Committee Amendment No. 1 to **HB 855** is as follows:

Amend printed copy of **HB 855** on page 2, line 2 delete "*(c)*" and insert in lieu of "*(b)*"

HCR 114, A CONCURRENT RESOLUTION directing a study of the statutes in the KRS relating to administrative hearings.

WHEREAS, there are few statutes governing the conduct of administrative hearings by administrative bodies of the Commonwealth; and

WHEREAS, existing statutes do not provide for a uniform procedure for the conduct of administrative hearings; and,

WHEREAS, the administrative hearings procedures established by administrative regulations are inconsistent, have been repeatedly amended, and require individuals and entities subject to such administrative regulations to comply with a confusing variety of procedures, standards, rights and duties; and

WHEREAS, administrative hearings determine the rights, privileges and obligations of a great number of citizens of the Commonwealth, and have an economic impact on them; and

WHEREAS, a detailed analysis of such statutes would provide the General Assembly with information required in order to make decisions regarding amendment, recodification or repeal of existing statutes, and to provide a uniform procedure for administrative hearings;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission through its Administrative Regulation Review Subcommittee conduct a study of administrative hearings held by administrative bodies of the Commonwealth in order to make recommendations concerning the amendment or enactment of statutes governing administrative hearings.

Section 2. This study shall include, but not be limited to, a determination of the following:

(1) A review of existing statutes and administrative regulations governing administrative hearings;

(2) A review of statutes and procedures followed by other state and federal administrative bodies;

(3) A review of state and federal case law relating to constitutional requirements for administrative hearings; and,

(4) Whether a uniform procedure for administrative hearings is required.

Section 3. A report of the findings and recommendations shall be submitted to the Legislative Research Commission no later than August 31, 1989.

Section 4. Staff services to be utilized in this study are estimated to cost $75,000. Services and staff support are to be provided by the Legislative Research Commission from the regular Commission budget, subject to the limitations and other research responsibilities of the Commission.

The Committee on Cities reported **HB 36** with Committee Substitute and Committee Amendment attached thereto, **HB 514** with Committee Substitute attached thereto, **HB 667** with Committee Amendment attached thereto, **HB 668** with Committee Amendment attached thereto, **SB 217** and **SB 223** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 36, AN ACT relating to charter county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the citizens of any county, except a county containing a city of the first class or urban-county government, may vote to merge all units of city and county government into a charter county form of government. Such merger shall take place only after compliance with the procedures set forth in this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court in any county, except a county containing a city of the first class or urban-county government, may adopt an ordinance to study the question of merging the county government with all units of city government within the county to form a charter county form of government.

(2) In lieu of the fiscal court adopting an ordinance pursuant to subsection (1) of this section, a petition may be filed with the county clerk requesting a referendum be held on the question of merger and the adoption of a charter county form of government. The petition shall be signed by at least five percent (5%) of the number of county residents voting in the preceding regular election.

(3) Upon the adoption of an ordinance by a fiscal court pursuant to subsection (1) of this section, or upon a petition filed with the county clerk pursuant to subsection (2) of this section, the fiscal court and the city

legislative body of each city within the county shall jointly appoint a commission to study the question of merger and the adoption of a charter county form of government. The commission shall be composed of at least twenty (20) citizens and the number of appointments the fiscal court and each city shall be entitled to make shall be reasonably proportionate to the relative populations of the county and of each city within the county.

(4) The commission shall be responsible for developing a comprehensive plan of charter county government. The comprehensive plan shall include, but not be limited to, the following provisions:

(a) A description of the form, structure, functions, powers and name of the proposed charter county government;

(b) A description of the officers and their powers and duties of the proposed charter county government; and

(c) The procedures by which the original comprehensive plan may be amended.

(5) The comprehensive plan shall be consistent with the provisions of the Constitution of Kentucky and shall be advertised at least ninety (90) days before a regular election at which the voters will be asked to approve or disapprove the adoption of the comprehensive plan.

(6) The votes shall be counted, returns made and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of adopting the comprehensive plan, the commissioners shall enter such fact of record and shall organize the charter county government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any contrary provision of the comprehensive plan of a charter county government, the legislative body of a charter county government may defer redistricting of the legislative districts of such body subsequent to each decennial census by the United States bureau of census, until after completion of the redistricting of general assembly seats within the charter county subsequent to such census. The redistricting of charter county government legislative districts hereunder shall be effective for the first regular charter county government primary election scheduled more than one hundred eighty (180) days after completion of such redistricting; provided that in no event shall the redistricting become effective later than two (2) years after release of census data upon which the redistricting is based.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Upon the election and qualification of county officers and such other elected officials as provided in the comprehensive plan at the next regularly scheduled election at which county officers shall be elected, as provided in section 99 of the Constitution, the charter county government shall immediately become the effective government. All the debts, property, franchises and rights of the existing county government and of any municipality within the county shall be assumed by the charter county government.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The comprehensive plan for merging city and county governments into a charter county government under this Act shall provide for the corporate dissolution of incorporated cities and special districts within the county whereupon:

(1) For purposes of all state and federal licensing and regulatory laws, statutory entitlement, gifts, grants-in-aid, governmental loan, or other governmental assistance under state or federal laws, rules or regulations:

(a) The charter county shall be deemed a county and the entire geographic area and population of the charter county shall be considered in calculating and determining the distribution basis for state or federal statutory entitlements, gifts, grants-in-aid, loans, or other forms of governmental assistance;

(b) The charter county government is empowered to designate to the appropriate state or federal agency those geographic areas, portions of roads, segments of population, or combinations thereof which shall be deemed to constitute rural or urban areas, roads or population.

(2) The chief executive officer of the charter county government shall determine and make the designations herein following a public hearing thereon. The charter county government shall fix the time and place of the hearing which shall be advertised pursuant to KRS chapter 424.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Charter county governments may exercise the constitutional and statutory rights, powers, privileges, immunities and responsibilities of counties and cities of the highest class within the county:

(a) In effect on the date the charter county government becomes effective;

(b) Which may subsequently be authorized for or imposed upon counties and cities of that class; and

(c) Which may be authorized for or imposed upon charter counties.

(2) Rights, powers, privileges and immunities exercised by charter county governments pursuant to subsection (1)(a) and (b) of this section shall continue to be authorized for charter county governments notwithstanding repeal or amendment of the statutes upon which they are based unless expressly repealed or amended for charter county governments.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Charter county governments may enact and enforce within their territorial limits such tax, licensing, police, sanitary and other ordinances not in conflict with the constitution and general statutes of this state now or hereafter enacted, as they shall deem requisite for the health, education, safety, welfare and convenience of the inhabitants of the county and for the effective administration of the charter county government.

(2) Charter county government ordinances shall be deemed to conflict with general statutes of this state only:

(a) When the ordinance authorizes that which is expressly prohibited by a general statute; or

(b) When there is a comprehensive scheme of legislation on the same subject embodied in a general statute.

(3) No ordinance or resolution shall be considered by the charter county government legislative body until it has been read at two separate meetings; provided, however, that the requirement for a second reading may be suspended by a two-thirds (2/3) vote of the membership of the legislative body. Requirements for reading ordinances or resolutions may be satisfied by public reading of the title and summary.

(4) All ordinances and resolutions shall be effective upon passage, unless timely vetoed by the chief executive officer of the charter county government pursuant to the provisions of the comprehensive plan of the charter county government. Any ordinance or resolution imposing fines, forfeitures, imprisonment, taxes or fees, other than a bond ordinance or resolution, shall be published in full in the daily newspaper which has the largest bona fide circulation in the county and is published in the publication area. The publication requirements for all other ordinances or resolutions, including bond ordinances or resolutions, shall be satisfied by publication in full or by publication of the title and summary.

(5) The provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation may be adopted by ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the charter county government.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The territory of an charter county government may be divided into service districts. Each service district shall constitute a separate tax district within which the charter county government shall levy and collect taxes in accordance with the kind, type, level and character of the services provided by the charter county government in each of these districts. The legislative body of the charter county government may abolish or alter existing districts, or create new districts.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the comprehensive plan adopted pursuant to this Act requires the implementation of a merit or civil service system for the employes of a charter county government, such system shall be implemented by the charter county government so as to guarantee the substantive and procedural rights possessed by any employe of a government in existence within the boundaries of the charter county prior to the effective date of merger.

(2) During the time a merit or civil service system is being implemented pursuant to the requirements of a comprehensive plan all procedural and substantive rights possessed by any employe of a government in existence within the boundaries of the charter county prior to the effective date of merger shall be protected.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be appointed to any position in a charter county government because of political, partisan service rendered by him or his family, or because of political sentiment or affiliation nor shall any person be dismissed, suspended or reduced in grade or pay because of any political opinion.

(2) The appointment and continuance of employment of all persons in a charter county government shall depend solely upon their ability and willingness to perform their duties, and shall not be a reward for political activity or contribution to campaign funds.

(3) No employe of a charter county government shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No employe of a charter county government shall be active in politics or work for the election of candidates while on duty.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

A charter county government shall provide a retirement system for its employes by participating in the county employes retirement system pursuant to KRS 78.510 to 78.852 and shall comply with the alternative participation plan provisions of KRS 78.530(3)(a). A charter county government shall certify its policemen and fire fighters to be working in hazardous positions and shall comply with the retirement plan provisions of KRS 78.545(31) and 61.592.

Section 12. KRS 67.077 is amended to read as follows:

(1) No county ordinance shall be passed until it has been read on two (2) separate days, but ordinances may be read by title and a summary only. A proposed ordinance may be amended by the fiscal court after its first reading and prior to its adoption. All amendments shall be proposed in writing, and only by setting out in full each amended section.

(2) No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. Publication of amendments to a proposed ordinance shall be required, pursuant to KRS Chapter 424, prior to its adoption, and amendments shall be filed with the full text of the proposed ordinance which is available for public inspection. In the event consideration for passage is continued from the initial meeting to a subsequent date, no further publication is necessary provided that at each meeting the time, date and place of the next meeting are announced.

(3) All county ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the fiscal court. Where applicable a sketch, drawing or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.

(4) Traffic, building, housing, plumbing, electrical, safety and other self-contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.

(5) The provisions of this section shall not be applicable in counties which have pursuant to *this Act adopted a charter county form of government or pursuant to* KRS Chapter 67A adopted an urban-county form of government.

Section 13. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, *charter county government,* or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, except in the case of volunteer fire fighters serving a fire district created pursuant to KRS 75.010, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall

fix the value of that part of the compensation not paid in money. In the case of fire fighters employed by a district created pursuant to KRS 75.010 who are paid less than five thousand dollars ($5,000) per year for fire fighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: nineteen hundred fifty (1950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year; in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty, and except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; and

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system.

Section 14. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council which shall consist of the mayors of all cities of the first and second classes and urban-county governments *and the designated chief executives of charter county governments which prior to merger of city and county governments contained a city of the second class*. The mayor of Louisville shall serve as the first chairman and subsequent chairmen shall be elected annually by the council members. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order and race relations. The council shall meet at least four (4) times per year to formulate a plan to improve urban conditions for presentation to the governor annually and the general assembly.

(2) The council shall be attached to the department for local government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.

Section 15. KRS 446.010 is amended to read as follows:

As used in the statute laws of this state, unless the context requires otherwise:

(1) "Action" includes all proceedings in any court of this state;

(2) "Animal" includes every warm-blooded living creature except a human being;

(3) "Attorney" means attorney-at-law;

(4) "Bequeath" and "devise" mean the same thing;

(5) "Bequest" and "legacy" mean the same thing, and embrace either real or personal estate, or both;

(6) "Cattle" includes horse, mule, ass, cow, ox, sheep, hog or goat of any age or sex;

(7) *"City" includes town and any county which has adopted a charter county form of government;*

(8) "Company" may extend and be applied to any corporation, company, person, partnership, joint stock company or association;

(9)[~~(8)~~] "Corporation" may extend and be applied to any corporation, company, partnership, joint stock company or association;

(10) "County" includes any county which has adopted a charter county form of government;

(11)[~~(9)~~] "Cruelty" as applied to animals includes every act or omission whereby unjustifiable physical pain, suffering or death is caused or permitted;

(12)[~~(10)~~] "Directors," when applied to corporations, includes managers or trustees;

(13)[~~(11)~~] "Domestic," when applied to corporations, means all those incorporated or formed by authority of this state;

(14)[~~(12)~~] "Domestic animal" means any animal converted to domestic habitat;

(15)[~~(13)~~] "Federal" refers to the United States;

(16)[~~(14)~~] "Foreign," when applied to corporations, includes all those incorporated or formed by authority of any other state;

(17)[~~(15)~~] "Generally accepted accounting principles" are those uniform minimum standards of and guidelines to financial accounting and reporting as adopted by the National Council on Governmental Accounting, under the auspices of the Municipal Finance Officers Association and by the Financial Accounting Standards Board, under the auspices of the American Institute of Certified Public Accountants;

(18)[~~(16)~~] "Humane society," "society," or "Society for the Prevention of Cruelty to Animals," means any nonprofit corporation, organized under the laws of this state and having as its primary purpose the prevention of cruelty to animals;

(19)[~~(17)~~] "Issue," as applied to the descent of real estate, includes all the lawful lineal descendants of the ancestors;

(20)[~~(18)~~] "Land" or "real estate" includes lands, tenements and hereditaments and all rights thereto and interest therein, other than a chattel interest;

(21)[~~(19)~~] "Legatee" and "devisee" convey the same idea;

(22)[~~(20)~~] "May" is permissive;

(23)[~~(21)~~] "Month" means calendar month;

(24)[~~(22)~~] "Oath" includes "affirmation" in all cases in which an affirmation may be substituted for an oath;

(25)[~~(23)~~] "Owner" when applied to any animal, means any person having a property interest in such animal;

(26)[~~(24)~~] "Peace officer" includes sheriffs, constables, coroners, jailers, metropolitan correctional officers, marshals, policemen and other persons with similar authority to make arrests;

(27)[~~(25)~~] "Penitentiary" includes all of the state penal institutions except the houses of reform;

(28)[~~(26)~~] "Person" may extend and be applied to bodies-politic and corporate, societies, communities, the public generally, individuals, partnerships and joint stock companies;

(29)[~~(27)~~] "Personal estate" includes chattels, real and other estate that passes to the personal representative upon the owner dying intestate;

(30)[~~(28)~~] "Regular election" means the election in even numbered years at which members of Congress are elected and the election in odd numbered years at which state officers are elected;

(31)[~~(29)~~] "Shall" is mandatory;

(32)[~~(30)~~] "State" when applied to a part of the United States, includes territories, outlying possessions and the District of Columbia; "any other state" includes any state, territory, outlying possession, the District of Columbia, and any foreign government or country;

(33)[~~(31)~~] "State funds" or "public funds" means sums actually received in cash or negotiable instruments from all sources unless otherwise described by any state agency, state-owned corporation, university, department, cabinet, fiduciary for the benefit of any form of state organization, authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization whether or not the money has ever been paid into the treasury and whether or not the money is still in the treasury if the money is controlled by any form of state organization, except for those funds the management of which is to be reported to the legislative research commission pursuant to KRS 42.600, 42.605 and 42.615;

(34)[~~(32)~~] "Sworn" includes "affirmed" in all cases in which an affirmation may be substituted for an oath;

(35)[~~(33)~~] "United States" includes territories, outlying possessions and the District of Columbia;

(36)[~~(34)~~] "Vacancy in office," or any equivalent phrase, means such as exists when there is an unexpired part of a term of office without a lawful incumbent therein, or when the person elected or appointed to an office fails to qualify according to law, or when there has been no election to fill the office at the time appointed by law; it applies whether the vacancy is occasioned by death, resignation, removal from the state, county or district, or otherwise;

(37)[~~(35)~~] "Violate" includes failure to comply with;

(38)[~~(36)~~] "Will" includes codicils; "last will" means last will and testament; *and*

(39)[~~(37)~~] "Year" means calendar year[~~; and~~

~~(38) "City" includes town~~].

The Committee Substitute to **HB 36** is as follows:

HB 36, AN ACT relating to charter county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

In order to facilitate the operation of local government, to prevent duplication of services, and to promote efficient and economical management of the affairs of local government, the citizens of any county, except a county containing a city of the first class or urban-county government, may vote to merge all units of city and county government into a charter county form of government. Such merger shall take place only after compliance with the procedures set forth in this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) The fiscal court in any county, except a county containing a city of the first class or urban-county government, and a majority of all cities within the county may adopt an ordinance to study the question of merging the county government with all other units of local government within the county to form a charter county form of government.

(2) In lieu of the adoption of an ordinance pursuant to subsection (1) of this section, a petition may be filed with the county clerk requesting a referendum be held on the question of merger and the adoption of a charter county form of government. The petition shall be signed by at least twenty percent (20%) of the number of county residents voting in the preceding regular election.

(3) Within sixty (60) days of the adoption of an ordinance pursuant to subsection (1) of this section, or within sixty (60) days of a petition being filed with the county clerk pursuant to subsection (2) of this section, the fiscal court and the city legislative body of each city within the county shall jointly appoint a commission to study the question of merger and the adoption of a charter county form of government. The fiscal court shall determine the size of the membership of the commission which shall be composed of, but not limited to, twenty (20) citizens. The actual appointment of individual members to the commission shall be governed by the following provisions:

(a) The county shall make a number of appointments based upon the ratio of the percentage of the population residing in unincorporated areas of the county to the countywide population.

(b) Each city located within the county shall join together with other cities of the same classification located within the county for the purpose of making appointments to the commission. Jointly the cities shall make a number of appointments based upon the ratio of the percentage of the total population residing within that particular class of city within the county to the countywide population.

(c) If there is only one (1) city of a particular classification within a county, said city shall make a number of appointments based upon the ratio of the percentage of the population residing within that city to the countywide population.

(4) The commission shall be funded by the fiscal court and each city within the county in proportion to its relative population and shall be responsible for developing a comprehensive plan of charter county government which shall include, but not be limited to, the following provisions:

(a) A description of the form, structure, functions, powers and name of the proposed charter county government;

(b) A description of the officers and their powers and duties of the proposed charter county government; and

(c) The procedures by which the original comprehensive plan may be amended.

(5) The comprehensive plan shall be consistent with the provisions of the Constitution of Kentucky and shall be advertised at least ninety (90) days before a regular election at which the voters will be asked to approve or disapprove the adoption of the comprehensive plan.

(6) The votes shall be counted, returns made and canvassed in accordance with the provisions of KRS Chapters 116 to 121 governing elections, and the results shall be certified by the county board of election commissioners to the county clerk. If a majority of those voting on the issue are in favor of adopting the comprehensive plan, the county board of election commissioners shall enter such fact of record and the charter county commission shall organize the charter county government.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any contrary provision of the comprehensive plan of a charter county government, the legislative body of a charter county government may defer redistricting of the legislative districts of such body subsequent to each decennial census by the United States bureau of census, until after completion of the redistricting of general assembly seats within the charter county subsequent to such census. The redistricting of charter county government legislative districts hereunder shall be effective for the first regular charter county government primary election scheduled more than one hundred eighty (180) days after completion of such redistricting; provided that in no event shall the redistricting become effective later than two (2) years after release of census data upon which the redistricting is based.

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Following the adoption and organization of a charter county government pursuant to Section 2 of this Act, officials designated in the comprehensive plan shall be elected at the next regularly scheduled election at which county officers shall be elected. Upon the election and qualification of officials designated in the comprehensive plan, the charter county government shall immediately become the effective government. All the debts, property, franchises and rights of the existing county government and of any municipality within the county shall be assumed by the charter county government.

SECTION 5. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The comprehensive plan for merging city and county governments into a charter county government under this Act may provide for the corporate dissolution of incorporated cities and special districts within the county whereupon:

(1) For purposes of all state and federal licensing and regulatory laws, statutory entitlement, gifts, grants-in-aid, governmental loan, or other governmental assistance under state or federal laws, rules or regulations:

(a) The charter county shall be deemed a county and the entire geographic area and population of the charter county shall be considered in calculating and determining the distribution basis for state or federal statutory entitlements, gifts, grants-in-aid, loans, or other forms of governmental assistance;

(b) The charter county government is empowered to designate to the appropriate state or federal agency those geographic areas, portions of roads, segments of population, or combinations thereof which shall be deemed to constitute rural or urban areas, roads or population.

(2) The chief executive officer of the charter county government shall determine and make the designations herein following a public hearing thereon. The charter county government shall fix the time and place of the hearing which shall be advertised pursuant to KRS chapter 424.

SECTION 6. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Charter county governments may exercise the constitutional and statutory rights, powers, privileges, immunities and responsibilities of counties and cities of the highest class within the county:

(a) In effect on the date the charter county government becomes effective;

(b) Which may subsequently be authorized for or imposed upon counties and cities of that class; and

(c) Which may be authorized for or imposed upon charter counties.

(2) Rights, powers, privileges and immunities exercised by charter county governments pursuant to subsection (1)(a) and (b) of this section shall continue to be authorized for charter county governments notwithstanding repeal or amendment of the statutes upon which they are based unless expressly repealed or amended for charter county governments.

SECTION 7. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Charter county governments may enact and enforce within their territorial limits such tax, licensing, police, sanitary and other ordinances not in conflict with the constitution and general statutes of this state now or hereafter enacted, as they shall deem requisite for the health, education, safety, welfare and convenience of the inhabitants of the county and for the effective administration of the charter county government. However, no charter county government may enact any ordinance which imposes any tax or license, franchise or other fee, or requires a license, franchise or other permission, for or with respect to the construction or maintenance of any utility equipment, facility or apparatus along, over, under or across the streets, alleys or public grounds of, or the operation of any utility business within, any portion of the area of the government outside of the larger of the area within the corporate boundaries of the city or cities at the time of creation of the charter county government, or that part of the area of the charter county government within which the government provides at least the level of services provided by any city which existed prior to the creation of the charter county government.

(2) Charter county government ordinances shall be deemed to conflict with general statutes of this state only:

(a) When the ordinance authorizes that which is expressly prohibited by a general statute; or

(b) When there is a comprehensive scheme of legislation on the same subject embodied in a general statute.

(3) No ordinance or resolution shall be considered by the charter county government legislative body until it has been read at two separate meetings; provided, however, that the requirement for a second reading may be suspended by a two-thirds (2/3) vote of the membership of the legislative body. Requirements for reading ordinances or resolutions may be satisfied by public reading of the title and summary.

(4) All ordinances and resolutions shall be effective upon passage, unless timely vetoed by the chief executive officer of the charter county government pursuant to the provisions of the comprehensive plan of the charter county government. Any ordinance or resolution imposing fines, forfeitures, imprisonment, taxes or fees, other than a bond ordinance or resolution, shall be published in full in the daily newspaper which has the largest bona fide circulation in the county and is published in the publication area. The publication requirements for all other ordinances or resolutions, including bond ordinances or resolutions, shall be satisfied by publication in full or by publication of the title and summary.

(5) The provisions of any local, statewide or nationally recognized standard code and codifications of entire

bodies of local legislation may be adopted by ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the charter county government.

SECTION 8. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The territory of an charter county government may be divided into service districts. Each service district shall constitute a separate tax district within which the charter county government shall levy and collect taxes in accordance with the kind, type, level and character of the services provided by the charter county government in each of these districts. The legislative body of the charter county government may abolish or alter existing districts, or create new districts.

SECTION 9. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Whenever the comprehensive plan adopted pursuant to this Act requires the implementation of a merit or civil service system for the employes of a charter county government, such system shall be implemented by the charter county government so as to guarantee the substantive and procedural rights possessed by any employe of a government in existence within the boundaries of the charter county prior to the effective date of merger.

(2) During the time a merit or civil service system is being implemented pursuant to the requirements of a comprehensive plan all procedural and substantive rights possessed by any employe of a government in existence within the boundaries of the charter county prior to the effective date of merger shall be protected.

SECTION 10. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be appointed to any position in a charter county government because of political, partisan service rendered by him or his family, or because of political sentiment or affiliation nor shall any person be dismissed, suspended or reduced in grade or pay because of any political opinion.

(2) The appointment and continuance of employment of all persons in a charter county government shall depend solely upon their ability and willingness to perform their duties, and shall not be a reward for political activity or contribution to campaign funds.

(3) No employe of a charter county government shall be forced to pay or collect any assessments made by political organizations, contribute to political campaign funds, or be active in politics.

(4) No employe of a charter county government shall be active in politics or work for the election of candidates while on duty.

SECTION 11. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

A charter county government may provide a retirement system for its employes only by participating in the county employes retirement system pursuant to KRS 78.510 to 78.852.

Section 12. KRS 67.077 is amended to read as follows:

(1) No county ordinance shall be passed until it has been read on two (2) separate days, but ordinances may be read by title and a summary only. A proposed ordinance may be amended by the fiscal court after its first reading and prior to its adoption. All amendments shall be proposed in writing, and only by setting out in full each amended section.

(2) No county ordinance shall be passed until it has been published pursuant to KRS Chapter 424. Prior to passage, ordinances may be published by summary. Publication shall include the time, date and place at which the county ordinance will be considered, and a place within the county where a copy of the full text of the proposed ordinance is available for public inspection. Publication of amendments to a proposed ordinance shall be required, pursuant to KRS Chapter 424, prior to its adoption, and amendments shall be filed with the full text of the proposed ordinance which is available for public inspection. In the event consideration for passage is continued from the initial meeting to a subsequent date, no further publication is necessary provided that at each meeting the time, date and place of the next meeting are announced.

(3) All county ordinances and amendments shall be published after passage and may be published in full or in summary form at the discretion of the fiscal court. Where applicable a sketch, drawing or map, together with a narrative description written in layman's terms, may be used in lieu of metes and bounds descriptions. If published in summary form, publication shall contain notice of a place in the county where the full text of the ordinance or amendment is available for public inspection.

(4) Traffic, building, housing, plumbing, electrical, safety and other self-contained codes may be adopted by reference if a copy of the code is kept with the adopting ordinance and is made a part of the permanent records of the county.

(5) The provisions of this section shall not be applicable in counties which have pursuant to *this Act adopted a charter county form of government or pursuant to* KRS Chapter 67A adopted an urban-county form of government.

Section 13. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the county employes retirement system;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county or political subdivision or instrumentality, including school boards, *charter county government,* or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and provided the board is willing to accept such agency or corporation, the board being hereby granted the authority to determine the eligibility of such agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employe" means every regular full-time appointed or elective officer or employe of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not, except in the case of volunteer fire fighters serving a fire district created pursuant to KRS 75.010, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, the electorate of a county, or any authority of such county having the power to appoint or elect an employe to office or employment in such county;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1958, for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7), 61.555 and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1958, for which creditable compensation was paid. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. In the case of fire fighters employed by a district created pursuant to KRS 75.010 who are paid less than five thousand dollars ($5,000) per year for fire fighting services, creditable compensation shall mean an assumed salary of at least five thousand dollars ($5,000) per year, or a higher figure set annually by the district board of trustees;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) months period immediately preceding the member's effective retirement date, and shall include employe contributions picked up after August 1, 1982 pursuant to KRS 78.610(4). Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate: nineteen hundred fifty (1950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in case of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30;

(20) "Agency reporting official" means the person designated by the participating agency to file reports with the county employes retirement system;

(21) "Regular full-time positions" as used in subsection (6) of this section shall mean all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year; in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are non-renewable;

(c) Temporary positions which are positions of employment with a participating agency for a period of time not to exceed twelve (12) months in any event and not renewable;

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty, except in case of school bus drivers for school boards, in which event the school term average shall be eighty (80) hours of work per month in the performance of duty, and except in the case of volunteer fire fighters employed by a district created pursuant to KRS 75.010 who shall satisfy work requirements set by the district board of trustees;

(22) "Alternate participation plan" means a new method of participation in the system as provided for by KRS 78.530(3) which shall become effective July 1, 1973; and

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the system.

Section 14. KRS 82.025 is amended to read as follows:

(1) There shall be created a Kentucky Urban Affairs Council which shall consist of the mayors of all cities of the first and second classes and urban-county governments *and the designated chief executives of charter county governments which prior to merger of city and county governments contained a city of the second class*. The mayor of Louisville shall serve as the first chairman and subsequent chairmen shall be elected annually by the council members. The council shall study all matters pertaining to urban problems, including but not limited to human resources, environmental conditions, property values, law and order and race relations. The council shall meet at least four (4) times per year to formulate a plan to improve urban conditions for presentation to the governor annually and the general assembly.

(2) The council shall be attached to the department for local government for administrative purposes. The department shall be the administrative agent for the council providing staff and other services, as needed, by the council. The department shall provide adequate funding for staff services and the reasonable and necessary expenses of the council and its members for the effective performance of the council's work.

Section 15. KRS 83A.060 is amended to read as follows:

(1) Each ordinance shall embrace but one (1) subject and shall have a title which shall clearly state the subject.

(2) Each ordinance shall be introduced in writing and shall have an enacting clause styled "Be it ordained by the City

(3) No ordinance shall be amended by reference to its title only, and ordinances to amend shall set out in full the amended ordinance or section indicating any words being added by a single solid line drawn underneath them, and any words being deleted by a single broken line drawn through them.

(4) Except as provided in subsection (7) of this section, no ordinance shall be enacted until it has been read on two (2) separate days. The reading of an ordinance may be satisfied by stating the title and reading a summary rather than the full text.

(5) A city legislative body may adopt the provisions of any local, statewide or nationally recognized standard code and codifications of entire bodies of local legislation by an ordinance which identifies the subject matter by title, source and date and incorporates the adopted provisions by reference without setting them out in full, provided a copy accompanies the adopting ordinance and is made a part of the permanent records of the city.

(6) Unless otherwise provided by statute, a majority of a legislative body shall constitute a quorum and a vote of a majority of a quorum shall be sufficient to take action.

(7) In an emergency, upon the affirmative vote of two-thirds (2/3) of the membership, a city legislative body may suspend the requirements of second reading and publication in order for an ordinance to become effective by naming and describing the emergency in the ordinance. Publication requirements of subsection (9) of this section shall be complied with within ten (10) days of the enactment of the emergency ordinance.

(8) Every action of the city legislative body shall be made a part of the permanent records of the city and on passage of an ordinance the vote of each member of the city legislative body shall be entered on the official record of the meeting. The legislative body shall provide by ordinance for the maintenance and safekeeping of the permanent records of the city. The person assigned this responsibility and the presiding officer shall sign the official record of each meeting. All ordinances adopted in a city shall, at the end of

each month, be indexed and maintained in the following manner:

(a) The city budget, appropriations of money and tax levies shall be maintained and indexed so that each fiscal year is kept separate from other years.

(b) All other city ordinances shall be kept in the minute book or an ordinance book in the order adopted and indexed in a composite index or maintained in a code of ordinances.

(9) Except in cities of the first class, *a charter county government*, and as provided in subsection (7) of this section, no ordinance shall be effective until published pursuant to KRS Chapter 424. Ordinances, except bond ordinances, imposing fines, forfeitures, imprisonment, taxes or fees shall be published in full. The publication requirements for all other ordinances including all bond and zoning ordinances shall be satisfied by publication in full or in summary as designated by the legislative body. The requirements for summary publication shall be satisfied by publication of the title and a certified summary of the contents prepared by an attorney licensed to practice law in the Commonwealth of Kentucky. Ordinances that include descriptions of real property may include a sketch, drawing, or map, including common landmarks, such as streets or roads in lieu of metes and bounds descriptions.

(10) A city may by ordinance specify additional requirements for adoption of ordinances in greater detail than contained herein, but a city shall not lessen or reduce the substantial requirements of this section or any other statute relating to adoption of ordinances.

(11) Not less than once every five (5) years each city shall cause all ordinances in the composite index or code of ordinances to be examined for consistency with state law and with one another and to be revised to eliminate redundant, obsolete, inconsistent and invalid provisions.

(12) The legislative body may adopt municipal orders. Any order shall be in writing and may be adopted only at an official meeting. Any order may be amended by a subsequent municipal order or ordinance. All orders adopted shall be maintained in an official order book.

(13) In lieu of an ordinance, a municipal order may be used for matters relating to the internal operation and functions of the municipality and to appoint or remove or approve appointment or removal of members of boards, commissions and other agencies over which the city has control.

(14) All ordinances, and orders of the city may be proved by the signature of the city clerk; and when the ordinances are placed in a printed composite index or code of ordinances by authority of the city, the printed copy shall be received in evidence by any state court without further proof of such ordinances.

(15) For anything said in debate, legislative body members shall be entitled to the same immunities and protections allowed to members of the general assembly.

The Committee Amendment No. 1 to **HB 36** is as follows:

Amend printed copy of Committee Substitute to **HB 36** on page 3, line 11, by replacing the period with a semi-colon; and

on page 3, after line 11, by inserting the following:

"*(d) Each class of city within the county shall have a minimum of one (1) representative on the commission.*".

HB 514, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

In cities of the third and fourth classes in counties containing a city of the first class all duties, powers and responsibilities of boards of adjustment as provided for in this chapter may be retained by the legislative *body.*

Section 2. KRS 100.217 is amended to read as follows:

(1) *Except as provided for in Section 1 of this Act,* before any zoning regulation may have legal effect within the planning unit, a board or boards of adjustment shall be appointed for the planning unit as stated in the agreement under which the unit operates. The agreement may provide for additional boards of adjustment with jurisdiction of a particular city or area within the planning unit. Provided, that the jurisdiction of the boards of adjustment so established shall be clearly defined as to territorial limits, that all territory within the planning unit is within the jurisdiction of some board of adjustment so established and that no territory is subject to the jurisdiction of more than one (1) board of adjustment, except as provided in KRS 100.203(5).

(2) A board of adjustment shall consist of either three (3), five (5), or seven (7) members, all of whom must be citizen members, and not more than two (2) of whom may be citizen members of the planning commission.

(3) The mayor shall be the appointing authority for cities, and the county judge/executive shall be the appointing authority for counties, subject to the approval of their respective legislative bodies.

(4) The term of office for the board of adjustment shall be four (4) years, but the term of office of members first appointed shall be staggered so that a proportionate number serve one (1), two (2), three (3), and four (4) years respectively.

(5) Vacancies on the board of adjustment shall be filled within sixty (60) days by the appropriate appointing authority. If the authority fails to act within that time, the planning commission shall fill the vacancy. When a vacancy occurs other than through expiration of the term of office, it shall be filled for the remainder of that term.

(6) All members of boards of adjustment shall, before entering upon their duties, qualify by taking the oath of office prescribed by section 228 of the Constitution of the Commonwealth of Kentucky before any judge, county judge/executive, notary public, clerk of a court, or justice of the peace within the district or county in which he resides.

(7) Reimbursement for expenses or compensation or both may be authorized for members on a board of adjustment.

(8) Any member of a board of adjustment may be removed by the appropriate appointing authority for inefficiency, neglect of duty, malfeasance, or conflict of interest. Any appointing authority who exercises the power to remove a member of the board of adjustment shall submit a written statement to the commission setting forth the reasons for removal, and the statement shall be read at the next meeting of the board of adjustment, which shall be open to the general public. The member so removed shall have the right of appeal from the removal to the circuit court of the county in which he resides.

(9) Notwithstanding subsection (4) of this section, when a city of the first class and a county containing such city have in effect a compact pursuant to KRS 79.310 to 79.330, the terms of the members on the board shall be for three (3) years and until their successors are appointed and qualified. Upon the effective date of the compact, if the board is not reorganized pursuant to subsection (1) of this section, the mayor, and county judge/executive with approval of the fiscal court, shall adjust the terms of the sitting members to provide that the terms of one-third (1/3) plus one (1) of the members expire in one (1) year, the terms of one-third (1/3) of the members in two (2) years and the terms of one-third (1/3) of the members expire in three (3) years. Upon expiration of these staggered terms, successors shall be appointed for a term of three (3) years.

(10) Each board of adjustments annually shall elect a chairman, vice-chairman, and secretary and any other officers it deems necessary, and any officer shall be eligible for re-election at the expiration of his term.

The Committee Substitute to **HB 514** is as follows:

HB 514, AN ACT relating to planning and zoning.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

Not withstanding any provisions of KRS 100.207, 100.211 and 100.215 to the contrary, in counties containing a city of the first class, the fiscal court of the county or the legislative body of a city of the first class to the fourth class may amend its zoning ordinance by deleting reference to any conditional use specified therein without the recommendation, approval or concurrence of the planning commission or any other city or county within the planning unit.

HB 667, AN ACT relating to short-term borrowing by governmental agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Governmental agency" means any county, urban county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(2) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to act on behalf of a governmental agency.

(3) "Legislation" means an order, resolution or ordinance of the governing body.

(4) "Notes" means notes authorized by this Act which may be secured by taxes or revenue or taxes and revenue.

(5) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees and occupational license fees.

(6) "Taxes" means taxes properly levied upon real or personal property.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A governmental agency shall have power and authority, by legislation duly adopted, to borrow moneys from time to time in any fiscal year in anticipation of the receipt of current taxes or revenues, or both, to evidence the obligation by notes, appropriately designated, and to authorize, issue and sell such notes in the manner, and subject to the limitations provided therefor in this Act. Notes shall be payable only from moneys appropriated by the governing body of the governmental agency. Such power to borrow from time to time shall include, but not be limited to, the power to make a single authorization and then issue and sell portions of such amount of authorized notes whenever desired during the fiscal year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

No governmental agency shall authorize or issue notes in any one (1) fiscal year which in the aggregate shall exceed seventy-five percent (75%) of:

(1) In the case of notes payable solely from and secured by a pledge of taxes, the amount of such taxes levied and to be collected for the current fiscal year;

(2) In the case of notes payable solely from and secured by a pledge of revenues, the amount of such revenues anticipated to be collected during the twelve (12) months immediately succeeding the date of the notes; and

(3) In the case of notes payable from and secured by a pledge of taxes and revenues, the sum of taxes

and revenues anticipated to be collected during the current fiscal year.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes payable in whole or in part from taxes shall mature on a date determined by the governing body which shall be no later than the last day of the fiscal year in which the notes are issued. Notes payable solely from revenue shall mature on a date determined by the governing body which shall be no later than one (1) year from the date of the notes. Interest on notes from the date thereof shall be payable at their maturity or payable in installments at earlier dates. Interest on the notes may be at such rate, rates or method of determining rates as the governing body of the governmental agency unit may determine.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes shall be dated as of a date not more than thirty (30) days after the effective date of the legislation authorizing the notes. Notes shall be issued in such denominations, shall be subject to such rights of prior redemption, shall have such privileges of exchange and registration, shall be dated, shall be in registered or bearer form with or without coupons, and shall be payable at such place or places, all as the governing body of the governmental agency may determine.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes issued in a single fiscal year, shall be equally and ratably secured by the pledge of, security interest in, and a lien and charge on, the taxes or revenues, or both, of the governmental agency specified in the authorizing legislation which are in the process of collection and are to be received during the period when the notes will be outstanding. Such pledge, lien and charge shall be fully perfected as against the governmental agency, all creditors thereof, and all third parties in accordance with the terms of the legislation from and after the delivery of the notes until the notes are paid in full. The legislation may establish one (1) or more sinking funds or note retirement funds and provide for periodic or other deposits therein, and may contain such covenants or other provisions as the governmental agency shall determine. In every case, the taxes and revenues pledged shall be those taxes and revenues which are the subject of appropriation for the current fiscal year. The holders or owners of notes may be given the right to have such notes continually secured by the faith and credit of the governmental agency, and each such note shall bear on its face a statement to that effect and to the effect that the right of payment on the note is limited to the taxes or revenues pledged under the legislation of the governmental agency authorizing the notes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

The holder of the notes shall have the right to enforce a pledge of, security interest in and lien and charge on, the taxes or revenues or both, of the governmental agency against all state and local public officials in possession of any of such taxes or revenues at any time which may be collected directly from such official upon notice by such holder for application to the payment of a note as and when due or for deposit in the applicable sinking fund or note retirement fund at the times and in the amounts specified in the note. Any state or local public official in possession of any taxes or revenues which are pledged shall make payment, against receipt therefor, directly to the holder of the notes and shall thereby be discharged from any further liability or responsibility for such taxes or revenues. If such payment is a payment in full of the notes, it shall be made against surrender of the notes to the state or local public official for delivery to the governmental agency in the case of payment in full, otherwise it shall be made against production of the notes for notation thereon of the amount of the payment.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Prior to each authorization of notes, authorized officers of the governmental agency shall make an estimate of the taxes or revenues, or both, whichever is to secure the payment of the notes, which are estimated to be received during the period when the notes will be outstanding. Such estimate shall take due account of the past and anticipated collection experience of the governmental agency and of current economic conditions. The estimate shall be certified by such officer as of a date not more than thirty (30) days prior to the effective date of the legislation authorizing the notes.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Notes may be sold at public, private or invited sale as the governing body of the governmental agency may determine. Any public sale shall be advertised and conducted in the manner and subject to the conditions provided for a public sale of bonds pursuant to KRS Chapter 424. The governing body of the governmental agency shall award the notes by legislation to specified purchasers at a specified price.

SECTION 10. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

Without first notifying the state local finance officer in writing, no note shall be valid or obligatory. Notification shall contain the terms of the notes, including the interest rates or method of determining rates, the approximate date of issue, the maturity dates, the trustee or paying agent, if any, and shall include a copy of the certificate of the governmental agency as to taxes or revenues to be collected during the term of the notes. No approval of the State Local Finance Officer shall be required.

SECTION 11. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the Short-term Borrowing Act.

The Committee Amendment No. 1 to **HB 667** is as follows:

Amend printed copy of **HB 667** on page 2, between lines 1 and 2, by inserting a new subsection *(6)* to read as follows:

"*(6) "State local finance officer" means the officer designated in KRS 66.045.*"; and

on page 2, line 2, by renumbering the existing subsection "*(6)*" as subsection "*(7)*"; and

on page 3, line 12, after the word "*payable*" and before the word "*shall*" by deleting "*in whole or in part from taxes*"; and

on page 3, line 15, after the period "." by deleting "*Notes payable solely from*"; and

on page 3, lines 16 and 17, by deleting lines 16 and 17 in their entirety; and

on page 3, line 18, before the word "*Interest*" by deleting "*date of the notes.*".

HB 668, AN ACT relating to leasing property by local governmental agencies.

Whereas, counties, municipalities, taxing districts, special districts, school districts and other political subdivisions of the Commonwealth of Kentucky have heretofore entered into lease agreements with respect to the acquisition of real and personal property to be used for public purposes; and

Whereas, this General Assembly desires to clarify and ratify leasing procedures for governmental agencies in the Commonwealth and to establish a definitive form and structure for leasing transactions entered into by governmental agencies in the future;

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Acquire" means to purchase, install, equip or improve personal property or real property pursuant to this Act.

(2) "City" means any municipal corporation of any class incorporated in the Commonwealth.

(3) "Construct" means building reconstruction, replacement, extension, repairing, betterment, development,

equipment, embellishment or improvement.

(4) "County" means a political subdivision of the Commonwealth created and established by the laws of the Commonwealth.

(5) "Governmental agency" means any county, urban county government, city, taxing district, special district, school district, or other political subdivision of the Commonwealth or body corporate or politic or any instrumentality of the foregoing.

(6) "Governing body" means the board, council, commission, fiscal court, or other body or group that is authorized by law to acquire property for each respective governmental agency.

(7) "Lease" means a lease, lease purchase, lease with option to purchase, installment sale agreement or other similar agreement entered into pursuant to this Act.

(8) "Lease price" means the total of amounts designated as payments of principal under a lease.

(9) "Net interest cost" means the total of all interest to accrue and fall due through the last payment due date on a lease, plus any discount or minus any premium included in the lease price.

(10) "Person" means any individual, corporation, organization, government or governmental subdivision or agency, business trust, estate, trust, partnership, association, and any other legal entity.

(11) "Personal property" means personal property, appliances, equipment or furnishings, or an interest therein, whether movable or fixed, deemed by the governing body of a governmental agency to be necessary, useful, or appropriate to one (1) or more purposes of the governmental agency, but shall not include real property.

(12) "Real property" means land, buildings, fixtures and interests in real property, deemed by the governing body of the governmental agency to be necessary, useful or appropriate to one (1) or more purposes of the governmental agency.

(13) "Revenue" means all funds received by a governmental agency which are not taxes, including but not limited to excises, transfers, service fees and occupational license fees.

(14) "School district" means any county school district or independent school district organized and existing pursuant to the laws of the Commonwealth.

(15) "Special district" means any agency, authority, or political subdivision of the Commonwealth which exercises less than statewide jurisdiction and which is organized for the purpose of performing governmental or other prescribed functions within limited boundaries. It includes all political subdivisions of the Commonwealth except a city, county or school district.

(16) "State local finance officer" means the officer designated in KRS 66.045.

(17) "Taxes" means taxes properly levied upon real or personal property.

(18) "Taxing district" means any taxing district created under KRS 65.180 to 65.190.

SECTION 2. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) The governing body of a governmental agency may approve by ordinance, order or resolution and may execute, perform, and make payments under a lease with any person, to acquire or construct personal property or real property for any public purpose. The lease may be on the terms and conditions that are deemed appropriate by the governing body. Leases payable in whole or in part from taxes shall be obligations of the governmental agency for a period that does not exceed one (1) year. Leases which are payable exclusively from or are secured solely by revenues, may exceed a one (1) year period. Leases may contain an option or options to renew or extend the term and may be made payable from a pledge of all or any part of any revenues, funds, or taxes or any combination thereof, which are available to the governmental agency for its public purposes.

(2) A governmental agency may pledge taxes as security for payment under leases which provide that the governmental agency may terminate its obligations under the lease at the expiration of each year during the term of the lease. A governmental agency may pledge any revenue other than taxes as security for payment under a lease regardless of any right to terminate. The lease may provide for the payment of interest on the unpaid amount of the lease price at a rate, rates or method of determining rates and may contain prepayment provisions, termination penalties, and such other provisions as shall be determined within the discretion of the governing body of the governmental agency.

(3) Prior to entering into a lease for the financing of the purchase of any personal property or real property, a governmental agency shall comply with other provisions of law regarding the purchase of property for public purposes. The lease shall be deemed an instrument for financing and provisions of law regarding purchases of property for public use shall not apply to the lease itself. Leases may be entered into on a publicly advertised competitive basis or on a private negotiated basis without advertisement.

SECTION 3. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) (a) Without first notifying the state local finance officer in writing, no lease may be entered into if the lease price exceeds one hundred thousand dollars ($100,000). The notification shall contain the terms of the lease, including the lease price, number of optional renewal periods, interest rate, date of issue, purpose, any trustee or paying agent, if any, and such other information as the state local finance officer may reasonably require. The state local finance officer may prescribe a form for providing the information required by this paragraph.

(b) In addition to the notification required by this subsection, no county shall enter into a lease if the lease price exceeds five hundred thousand dollars ($500,000) without first receiving the approval of the lease from the state local finance officer. The state local finance officer may prescribe procedures and adopt regulations for granting approval of such leases.

(2) The state local finance officer may provide technical and advisory assistance regarding the entering into leases by a governmental agency whose governing body requests assistance. Such assistance shall include, but is not limited to:

(a) Advice on the marketing of certificates of participation by a governmental agency;

(b) Conduct of training courses in debt management for local financial officers; and

(c) Promotion of the use by a governmental agency of such tools for sound financial management as adequate systems of budgeting, accounting, auditing and reporting.

SECTION 4. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A lease for real property may have any term, including renewals, not to exceed forty (40) years. A lease for personal property may have any term, including renewals, not to exceed the useful life of the personal property so financed, determined in accordance with generally accepted accounting principles.

SECTION 5. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A governmental agency shall be considered the equitable owner of any personal or real property leased under this Act where such property is used solely for public purposes, unless the governmental agency is vested with legal ownership pursuant to Section 7 of this Act. Personal or real property which is equitably or legally owned by a governmental agency shall be exempt from all taxation by the Commonwealth and any of its political subdivisions. Leases and interests therein and payments received by lessors or their assigns which are identified as interest shall be exempt from taxation by the Commonwealth and any of its political subdivisions to the same extent as bonds or notes issued by the Commonwealth and any governmental agency.

SECTION 6. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A lease or any interest therein entered into pursuant to this Act shall be a legal and authorized investment for banks, savings banks, trust companies, building and loan associations, savings and loan associations, insurance *companies, fiduciaries, and trustees.*

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

A lease may provide that legal title to the real property or personal property subject to the lease may be vested in the governmental agency or in the person acting as lessor under the lease and may be transferred from one to the other under such terms as may be provided in the lease.

SECTION 8. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This Act shall be authority for entering into leases and the performance of the other acts and procedures authorized by this Act, without reference to any other laws, or any restrictions or limitations contained therein, except as specifically provided in this Act. If leases are entered into under this Act, to the extent of any conflict or inconsistency between any provisions of this Act and any provisions of any other law, the provisions of this Act shall prevail and control, except that any governmental agency may use the provisions of any other law, not in conflict with the provisions of this Act, to the extent convenient or necessary to carry out any power or authority, express or implied, granted by this Act. This Act shall be liberally construed to effectuate its purpose.

SECTION 9. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

This Act may be cited as the governmental leasing act.

The Committee Amendment No. 1 to **HB 668** is as follows:

Amend printed copy of **HB 668** on page 6, line 11, after the word "*county*" and before the word "*shall*" by inserting the following language:

"*, except an urban-county,*"; and

on page 6, between lines 16 and 17, by inserting a new paragraph 1 *(c)* to read as follows:

"*(c) In addition to the notification required by this subsection, no school district shall enter into a lease if the lease price exceeds one hundred thousand dollars ($100,000) without first receiving the approval of the lease from the superintendent of public instruction. The superintendent of public instruction shall recommend administrative regulations to the state board of education for implementation of this Act.*".

SB 217, AN ACT relating to delinquent taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91.4883 is amended to read as follows:

(1) Within thirty (30) days after the filing with the circuit court clerk of an enforcement suit for the collection of unpaid taxes under the provisions of KRS 91.484 to 91.527, the collector shall cause a notice of enforcement to be published *two (2)* [~~four (4)~~] times, once each week, during successive weeks, and on the same day of each week, otherwise in accordance with the provisions of KRS Chapter 424.

(2) Such notice shall be in substantially the following form:

NOTICE OF ENFORCEMENT OF LIEN FOR DELINQUENT LAND TAXES
BY ACTION IN REM

Public Notice is hereby given that on the ____ day of __________, 19__, the City of __________ of __________ County, Kentucky, filed a petition, being Action Number _______, in the Circuit Court of ________ County, Kentucky, at __________ (stating the city), for the enforcement of liens for delinquent land taxes [~~(except liens in favor of the United States of America, if any)~~] against the real estate situated in such city, all as described in said petition.

The object of said suit is to obtain from the court a judgment enforcing the city's tax and other liens against such real estate and ordering the sale of such real estate for the satisfaction of said liens thereon (except *right of redemptions* [~~liens~~] in favor of the United States of America if any), including principal, interest, penalties, and costs. Such action is brought against the real estate only and no personal judgment shall be entered therein.

The count number assigned by the city to each parcel of real estate, a description of each such parcel by street address and the property valuation administrator's tax parcel number (district, block, lot and sub-lot), a statement of the total principal amount of all delinquent city tax bills against each such parcel of real estate, all of which, as to each parcel, is more fully set out and mentioned by count in the aforesaid petition, and the name of any taxing authority or person of record owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate as set out in the petition, are respectively as follows:

(Here set out the respective count numbers, property descriptions, names of taxpayers of record and statements of total principal amounts of tax bills, and names of those other interested persons of record next above referred to.)

The total principal amounts of delinquent taxes set out in this notice do not include the lawful interest, penalties, and costs which have accrued against the respective parcels of real estate.

Any person or taxing authority owning or holding any tax bill or claiming any right, title, or interest in or to, or lien upon, any such parcel of real estate must file an answer to such suit in the office of the circuit court clerk of ________ county in __________, and a copy of such answer with the city of ________ in accordance with the Kentucky rules of civil procedure, on or before the _____ day of ________, 19 __, and in such answer shall set forth in detail the nature and the amount of such interest and any defense or objection to the enforcement of the tax liens, or any affirmative relief he or it may be entitled to assert with respect thereto.

Any person having any right, title, or interest in or to, or lien upon, any parcel of such real estate may have the city's claims against such parcel dismissed from the action by paying all of the sums mentioned therein to the city of __________ including principal, interest, penalties, and costs then due, at any time prior to the enforcement sale of such real estate by the master commissioner.

In the event of failure to answer on or before the date herein fixed as the last day for filing answer in the suit, by any person having the right to answer, such person shall be forever barred and foreclosed as to any defense or objection he might have to the enforcement of such liens for delinquent taxes and the judgment of enforcement may be taken by default. Redemption may be made for a period of sixty (60) days after the master commissioner's enforcement sale, if the sale price is less than the parcel's current assessed value as certified by the revenue cabinet. Each such person having any right, title, or interest in or to, or any lien upon, any such parcel of real estate described in the petition so failing to answer or redeem, as aforesaid, shall be forever barred and foreclosed of any right, title, or interest in or to, or lien upon, or any equity of redemption in said real estate.

______________________________, Kentucky
(name of City)

____
Attorney

____

____

____
Address

____
Phone

____
Date of first publication

Section 2. KRS 91.514 is amended to read as follows:

(1) Upon the confirmation of the sale by the court and the expiration of the right of redemption provided in KRS 91.511, the title to any real estate purchased from the master commissioner pursuant to KRS 91.481 to 91.527 shall vest in the purchaser. The title of the real estate shall be an absolute estate in fee simple, subject to rights of way of public utilities on which tax has been otherwise paid and subject to any *right of redemption* [~~lien~~] of the United States of America, if any. All persons, including the Commonwealth of Kentucky, infants, incompetents, absentees, and nonresidents who may have had any right, title, interest, claim or equity of redemption in or to, or lien upon the land shall be barred of all right, title, interest, claim, lien or equity of redemption, and the court shall order that immediate possession of the real estate be given to the purchaser. Any person so barred shall thereafter have as his exclusive remedy a claim for a share of the proceeds of the sale of the real estate by the master commissioner.

(2) The title shall be subject to the liens of any tax bill which may have attached to the parcel of real estate prior to the time of the filing of the petition affecting such parcel of real estate not then delinquent, or which may have attached after the filing of the petition and prior to the expiration of the period provided for redemption and not including any answer to such petition.

(3) If the parcel of real estate is sold to the city, the title shall be free of any liens to the extent of the interest of any taxing authority in any such real estate.

(4) The title shall not be subject to the lien of special tax bills which have attached to the parcel of real estate but the lien of the special tax bill shall attach to the proceeds of the master commissioner's sale or to the proceeds of the ultimate sale of the parcel by the city.

(5) Failure of any party other than the purchaser to follow the procedures set out in KRS 91.484 to 91.527 shall not affect the vesting of title in the purchaser.

SB 223, AN ACT relating to land bank authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

(1) "Authority" means the land bank authority established pursuant to KRS 65.210 to 65.300 and this Act;

(2) "Agreement" means the interlocal cooperation agreement entered into by the parties pursuant to KRS 65.210 to 65.300 and this Act;

(3) "Parties" means the parties to the agreement, which shall include any city of the first class, any county containing a city of the first class, the local school district within the county and the Commonwealth of Kentucky;

(4) "Property" means real property, including any improvements thereon; and

(5) "Tax delinquent property" means any property on which the taxes levied and assessed by any party remain in whole or in part unpaid on the date due and payable.

SECTION 2. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

(1) Any city of the first class, the county containing the city, the local school district within the county and the Commonwealth of Kentucky may enter into an interlocal cooperation agreement pursuant to KRS 65.210 to 65.300 for the purpose of establishing a land bank authority pursuant to this Act.

(2) The authority shall be a public body corporate and politic with the power to sue and be sued and issue deeds in its name and any other powers necessary and convenient to carry out these powers or which may be granted to the authority by the parties.

(3) The authority shall be established to acquire the tax delinquent properties of the parties in order to foster the public purpose of returning land which is in a non-revenue generating, non-tax producing status to effective utilization in order to provide housing, new industry and jobs for the citizens of the county. The authority

shall have the powers provided in this Act and in the interlocal cooperation agreement.

SECTION 3. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall be governed by a board composed of four (4) members, one (1) appointed by the mayor of the city of the first class, one (1) appointed by the county judge/executive of the county, one (1) appointed by the superintendent of schools of the county school district and one (1) appointed by the governor. Each member shall serve at the pleasure of the respective appointing authority for a term of four (4) years and shall serve without compensation. The members shall be residents of the county and may be employes of the parties and shall serve without additional compensation. Any vacancy shall be filled in the same manner as the original appointment.

(2) The board of the authority shall meet from time to time as required, and three (3) members shall constitute a quorum. Approval by a majority of the membership shall be necessary for any action to be taken by the authority. All meetings shall be open to the public, except as otherwise permitted by KRS 61.810, and a written record shall be maintained of all meetings. A chairman shall be elected from among the members, and he shall execute all deeds, leases and contracts of the authority when authorized by the board.

(3) The authority may employ its own staff or may utilize employes of the parties, as determined by the agreement.

SECTION 4. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall hold in its own name, for the benefit of the parties, all properties conveyed to it by the parties, all tax delinquent properties acquired by it pursuant to Section 4 of this Act, and all properties otherwise acquired.

(2) It shall be the duty of the authority to administer the properties acquired by it, as follows:

(a) All property acquired by the authority shall be inventoried and appraised and the inventory shall be maintained as a public record;

(b) The authority shall organize and classify the property on the basis of suitability for use;

(c) The authority shall maintain all property held by it in accordance with applicable laws and codes; and

(d) The authority shall have the power to manage, maintain, protect, rent, lease, repair, insure, alter, sale, trade, exchange or otherwise dispose of any property on terms and conditions determined in the sole discretion of the authority. The authority may assemble tracts or parcels of property for public parks or other public purposes, and to that end may exchange parcels, and otherwise effectuate the purposes by agreement with any party.

(3) The acquisition and disposal of property by the authority shall not be governed or controlled by any regulations or laws of the parties unless specifically provided in the agreement.

(4) No property located within the city of the first class may be sold, traded, exchanged or otherwise disposed of, unless the transaction is approved by the member appointed by the mayor of the city of the first class. No property located within the county, but outside the city of the first class, may be sold, traded, exchanged or otherwise disposed of, unless the transaction is approved by the member appointed by the county judge/executive.

SECTION 5. A NEW SECTION OF KRS CHAPTER 91 IS CREATED TO READ AS FOLLOWS:

(1) If any party obtains a judgment against a tax delinquent property within the county for the taxes and, to satisfy the judgment, the property is ordered sold at a tax sale pursuant to KRS 91.504, 134.190 or other provision of KRS, if no person bids an amount equal to the full amount of all tax bills, interest, and costs owing on the property at the sale, the authority shall be deemed to have bid the full amount of all tax bills, interest, and costs due, and upon proper motion by the authority, the master commissioner shall make a deed of the property to the "Land Bank Authority." The title to the property shall be an absolute estate in

fee simple, subject to rights of way of public utilities on which tax has otherwise been paid and subject to any right of redemption of the United States of America, if any.

(2) When a property is acquired by the authority, all state, county, school district and city of the first class taxes shall be extinguished.

(3) At the time that the authority sells or otherwise disposes of property as part of its land bank program, the proceeds from the sale shall be distributed to the parties in proportion to their respective tax bills and costs. Conveyance of a property to a party shall not constitute disposal.

Calendar

HB 520, **HB 721**, **HB 766**, **HB 589**, **HB 663**, **HB 711**, **HB 629**, **HB 635**, **HB 644**, **HB 796**, **HB 16**, **HB 293**, **HB 436**, **HB 505**, **HB 512**, **HB 674**, **HB 694**, **HB 772** and **HB 776** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 578 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 65**, **HB 66**, **HB 71**, **HB 377**, **HB 457**, **HB 477**, **HB 564**, **HJR 27**, **SB 2**, **SB 214** and **SCR 45** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:10 p.m.)

HB 65, **HB 66**, **HB 71**, **HB 377**, **HB 457**, **HB 477**, **HB 564** and **HJR 27** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day

SB 139, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **SB 139**. Agreed.

Representative B. Jones moved the adoption of Floor Amendment No. 1 to **SB 139**. Agreed.

Representative Morris moved that **SB 139**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 3, 1988 roll call on **SB 139** - Appendix A.)

SB 139, as amended, was passed.

Representative Morris moved the adoption of the Floor Title Amendment to **SB 139**. Agreed; and title was agreed to.

Representative Morris moved that the vote by which **SB 139**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 175, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered

read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of Committee Substitute to **SB 175**. Agreed.

Representative L. Clark moved that **SB 175**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 5. (See March 3, 1988 roll call on **SB 175** - Appendix A.)

SB 175, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **SB 175**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 715 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 715** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 3, 1988 roll call on **HB 715** - Appendix A.)

HB 715 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 715** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 501, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 501**. Agreed.

Representative Burch moved that **HB 501**, as amended, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 3, 1988 roll call on **HB 501** - Appendix A.)

HB 501, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 501**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 46 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved that **HJR 46** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 3, 1988 roll call on **HJR 46** - Appendix A.)

HJR 46 was passed and the title agreed to.

Representative Siler moved that the vote by which **HJR 46** was passed be reconsidered and said motion

be placed on the table. Agreed.

HB 662 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 662** be passed.

On the roll call the vote was: Yeas 58, Nays 34. (See March 3, 1988 roll call on **HB 662** - Appendix A.)

HB 662 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 662** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 482, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Substitute to **HB 482**. Agreed.

Representative Richards moved that **HB 482**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 3, 1988 roll call on **HB 482** - Appendix A.)

HB 482, by way of Committee Substitute, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 482**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 626** be recommitted to the Committee on Judiciary-Civil. Agreed.

HB 602 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 602** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 3, 1988 roll call on **HB 602** - Appendix A.)

HB 602 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 602** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 12 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SB 12** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 3, 1988 roll call on **SB 12** - Appendix A.)

SB 12 was passed and the title agreed to.

Representative Little moved that the vote by which **SB 12** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 13 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **SB 13** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 3, 1988 roll call on **SB 13** - Appendix A.)

SB 13 was passed and the title agreed to.

Representative Little moved that the vote by which **SB 13** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 413, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that the House concur in Senate Floor Amendment No. 1 to **HB 413**. Agreed.

The Senate Floor Amendment No. 1 to **HB 413** is as follows:

Amend printed copy of **HB 413** on page 2, line 21, after the words "of the", by inserting before the word "fifth", the word *"thirtieth"* and by placing brackets around the word "fifth";

on page 2, line 26, after the words "after the", by inserting before the word "fifth", the word *"thirtieth"* and by placing brackets around the word "fifth"; and

on page 4, line 19, after the words "of the", by inserting before the word "fifth", the word *"thirtieth"* and by placing brackets around the word "fifth".

Representative Ridley moved that **HB 413**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 3, 1988 roll call on **HB 413** - Appendix A.)

HB 413, as amended by the Senate, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 413**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 64 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved that **HCR 64** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 3, 1988 roll call on **HCR 64** - Appendix A.)

HCR 64 was passed and the title agreed to.

Representative Noe moved that the vote by which **HCR 64** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

HR 135, by Representative Lyne: A RESOLUTION honoring Hank Hancock.

HR 136, by Representatives Heleringer, Walker, Reinhardt, Lefevers, Noland, J. Harper, Northup, Robinson, Napier, Ford, Overstreet, Altman, J. Brown, Preston, Hoover, Strong, K. Harper, Siler, Keith, Turner, Todd, Casebier, Guenthner, Ackerson, Allen, Will, Freibert, Lile and Layman: A RESOLUTION honoring Judith Kemp.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bill:

Appropriations and Revenue: **HB 959**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 883**.

Business Organizations and Professions: **HB 725**, **HB 908**, **HB 913**, **HB 802**, **HB 186**.

Judiciary-Criminal: **HB 396**, **HB 581**, **HB 649**, **HB 702**, **HB 831**, **HB 767**, **SB 178**.

Appropriations and Revenue: **HB 762**, **HB 856**, **HB 870**, **HB 937**, **HB 455**, **HB 354**, **HB 665**, **HB 917**.

Banking and Insurance: **HB 1020**.

State Government: **HB 1**, **HB 973**, **HB 21**, **HB 184**, **HB 192**, **HB 197**, **HB 200**, **HB 201**, **HB 212**, **HB 213**, **HB 214**, **HB 215**, **HB 216**, **HB 229**, **HB 250**, **HB 298**, **HB 301**, **HB 303**, **HB 334**, **HB 550**, **HB 628**, **HB 630**, **HB 737**, **HB 738**, **HB 751**.

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Judiciary-Criminal: **HB 96**.

Report of Committees

The Committee on Natural Resources and Environment reported **HB 519** with Committee Substitute attached thereto, **HB 684**, **HB 709** with Committee Amendment attached thereto, **HB 722** with Committee Amendments attached thereto, **HB 733**, **HB 755** with Committee Amendment attached thereto, **HB 793**, **HCR 17** with Committee Amendment attached thereto, and **HJR 70** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 519, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

A surface coal miner shall work within the sight and sound of at least one (1) other surface coal miner.

The Committee Substitute to **HB 519** is as follows:

HB 519, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

No employe of a surface coal mining operation shall be assigned, or allowed, or be required to perform work alone in any area where hazardous conditions exist that would endanger his safety unless he can communicate with others, can be heard, or can be seen.

HB 684, AN ACT relating to nature preserves and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 146.415 is amended to read as follows:

As used in KRS 146.410 to 146.530:

(1) "Natural area" means any area of land or water, or of both land and water, in public or private ownership, which either retains, or has reestablished to some degree in the judgment of the commission its natural character, though it need not be completely natural and undisturbed, or which has natural flora, fauna, biological, ecological, geological, scenic or archaeological features of scientific, aesthetic, cultural or educational interest;

(2) "Natural preserve" means a natural area, and land necessary for its protection, any estate, interest or right in which has been formally dedicated under the provisions of KRS 146.410 to 146.530 to be maintained as nearly as possible in its natural condition and to be used in a manner and under limitations consistent with its continued preservation, without impairment, disturbance or artificial development, for the public purposes of present and future scientific research, education, aesthetic enjoyment and habitat for plant and animal species and other natural objects;

(3) "Articles of dedication" means the writing by which any estate, interest or right in a natural area is formally dedicated as provided in KRS 146.410 to 146.530;

(4) "Commission" means the Kentucky *state* nature preserves commission;

(5) "System" means the state system of nature preserves established under KRS 146.410 to 146.530;

(6) "Cabinet" means the natural resources and environmental protection cabinet;

(7) "Director" means the director of the Kentucky *state* nature preserves commission.

Section 2. KRS 146.425 is amended to read as follows:

(1) The Kentucky *state* nature preserves commission is hereby created and shall consist of five (5) members qualified and appointed by the governor as follows:

(a) The governor shall seek advice on the making of appointments to the commission from, though not limited to, the following, if they have an active organization chartered in Kentucky:

1.[~~(i)~~] Kentucky Audubon Council

2.[~~(ii)~~] Sierra Club

3.[~~(iii)~~] The Izaak Walton League of America

4.[~~(iv)~~] The Nature Conservancy

5.[~~(v)~~] Kentucky Ornithological Society

6.[~~(vi)~~] Kentucky Academy of Science

(b) Of the five (5) commission members, one shall be a representative from the Farm Bureau Association, one shall be a representative from the National Farmers Organization, and one shall be a representative from the State Association of Soil Conservation Districts. Each member shall be a resident of Kentucky, and not an employe or officer of the Commonwealth.

(c) Any vacancies on the commission shall be filled in the same manner as the original appointment.

(2) *On or before July 1, 1988, the governor shall make appointments to the commission to take effect on July 1, 1988, as follows: of the five (5) members of the commission, one (1) shall be for a term of one (1) year; two (2) for a term of two (2) years; and two (2) for a term of three (3) years. Therearter, all* [~~The governor shall make the initial appointments to the commission within ninety (90) days after June 19, 1976, and appointees shall serve as members of the commission until the expiration of their term under KRS 146.410 to 146.530. Their~~] successors shall be appointed for a three (3) year term, expiring on June 30 *of the third year following appointment. If* [~~When~~] an appointment is made to fill a vacancy, the appointment shall be for the balance of the unexpired term. Each member of the commission shall hold office until his successor is appointed and qualifies. The commission shall organize by selecting from its membership a chairman and a secretary and shall provide rules for transacting its business and keeping records thereof. The commission shall meet quarterly or more frequently upon the call of the chairman or four (4) members. Three (3) members shall constitute a quorum for the transaction of business. The members of the commission shall receive no compensation but may be reimbursed for necessary expenses in connection with the performance of their duties.

Section 3. Whereas, it is imperative that the appointments to the new state commission be made expeditiously to protect and preserve the state's natural areas and nature preserves, an emergency is declared to exist, and this Act shall become effective June 1, 1988.

HB 709, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The natural resources and environmental protection cabinet shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight (8) month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim

permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) ten percent (10%) or more of any class of voting stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(11) The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the transportation cabinet attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

(12) In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(13) The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(14) A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the [~~penal~~] sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(15) Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the cabinet require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(16) The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(17) Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;

Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(18) If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(19) Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(20) Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(21) Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible: provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(22) All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

Section 2. KRS 350.064 is amended to read as follows:

(1) After a surface coal mining and reclamation permit application has been approved but before such a permit is issued, the applicant shall file with the regulatory authority, on a form prescribed and furnished by the regulatory authority, a *reclamation* bond for performance payable, as appropriate, to the state, and conditional upon faithful performance of all the requirements of this chapter and the permit. The *reclamation* bond shall cover that area of land within the permit area upon which the operator will initiate and conduct surface coal mining and reclamation operations within the initial term of the permit. As succeeding increments of surface coal mining and reclamation operations are to be initiated and conducted within the permit area, the permittee shall file with the cabinet an additional bond or bonds to cover such increments in accordance with this section.

(2) The cabinet may accept the *reclamation* bond of the applicant itself without separate surety when the applicant demonstrates to the satisfaction of the cabinet the existence of a suitable agent to receive service of process and a history of financial solvency and continuous operation sufficient for authorization to self-insure or bond such amount or in lieu of the establishment of a bonding program, as set forth in this section; the cabinet may approve an alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.

Section 3. KRS 350.151 is amended to read as follows:

(1) The natural resources and environmental protection cabinet shall promulgate permanent program rules and regulations for the mining and reclamation of land disturbed or removed by operations resulting from or incident to a mine as defined in KRS 352.010(1)(t). Such regulations shall recognize the distinct differences between the surface effects of underground mining and surface coal mining, and shall be promulgated pursuant to this chapter, and shall be enforced as provided in KRS 350.130 and 350.990. Those activities may include, but not be limited to, the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and all lands affected by haulage, excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface but said regulations shall not be more stringent than those applied to surface coal mining.

(2) The operator shall file with the cabinet a *reclamation* bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the [~~penal~~] sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000) conditioned upon the faithful performance of the requirements set forth in this section and of the rules and regulations of the cabinet. The cabinet shall accept, in lieu of the surety provided herein, the deposit by the operator of United States government securities, cash, or its equivalent in a sum equal to the principal amount of the required bond, or a self bond pursuant to regulations promulgated by the cabinet.

(3) In order to protect the stability of the land, the cabinet shall suspend underground mining activities under urbanized areas, and adjacent to industrial or commercial buildings, major impoundments, or permanent streams, if the cabinet finds imminent danger to inhabitants of said urbanized areas.

The Committee Amendment No. 1 to **HB 709** is as follows:

Amend printed copy of **HB 709** on page 10, line 5, and on page 18, line 2, after "cabinet." by inserting the following: *"The cabinet shall forfeit the entire amount of the bond for the permit area or increment in the event of forfeiture."*

HB 722, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in this Act, "hazardous waste reduction," shall mean in-plant practices, including but not limited to process modifications, feedstock substitutions, management practices or housekeeping alterations, recycling within industrial processes, or equipment replacement or modifications, that reduce, avoid, or eliminate the generation of hazardous wastes at its source rather than controlling, treating, or managing waste after its generation, to reduce the risks to employes, public health and the environment. Hazardous waste reduction shall not include actions taken at locations away from the waste-generating activity, including waste recycling or treatment, or concentrating the hazardous content of a waste to reduce volume or diluting hazardous waste to reduce the degree of hazard.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

There shall be established a center for hazardous waste reduction, which shall be a technical information and assistance office to be located at a state-owned university designated by the governor, which shall facilitate and promote the commercial implementation of hazardous waste reduction technologies and procedures by providing technical and financial assistance, as available, to business and industry.

SECTION 3. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The center shall:

(1) Compile, organize, and make available for distribution information on hazardous waste reduction

technologies and procedures;

(2) Compile, and make available for distribution to business and industry, a list of expert private consultants on hazardous waste reduction technologies and procedures, and a list of researchers at state universities that could provide assistance in waste reduction activities;

(3) Sponsor and conduct conferences and individualized workshops on hazardous waste reduction for specific classes of business or industry;

(4) Conduct feasibility analyses for innovative hazardous waste reduction technologies and procedures;

(5) Facilitate and promote the transfer of hazardous waste reduction technologies and procedures between businesses and industries;

(6) Develop, where appropriate, and distribute for voluntary implementation, hazardous waste reduction plans for the major classes of business or industry that generate and subsequently treat, store, or dispose of hazardous waste in the state;

(7) Develop, and make available for distribution, recommended hazardous waste audit procedures or protocols for utilization by business and industry in conducting internal hazardous waste audits;

(8) Administer loan, loan guarantee, interest subsidy, or grant programs which may be established pursuant to law for the purpose of providing monies to a business or industry to subsidize the costs of conducting hazardous waste audits or waste reduction studies, or developing or purchasing, and implementing, hazardous waste reduction technologies and procedures, or for other similar purposes;

(9) Provide monies, from such funds as may be appropriated or otherwise made available, to academic institutions, businesses or industries, government agencies or private organizations located in the state to conduct demonstration or pilot programs utilizing innovative hazardous waste reduction technologies or procedures for specific categories of industry or business;

(10) Provide monies, from such funds as may be appropriated or otherwise made available, to academic institutions or private organizations located in the state for basic or applied research on hazardous waste reduction;

(11) Compile, and make available for distribution, information on available tax benefits for the implementation of hazardous waste reduction technologies and procedures by an industry or business;

(12) Establish goals for voluntary hazardous waste reduction within the state, including the identification of key industries and businesses which should receive priority assistance from the center;

(13) Identify governmental and nongovernmental impediments to hazardous waste reduction;

(14) Develop the necessary information base and data collection programs to assist in establishing program priorities and evaluating the progress of reducing hazardous wastes;

(15) Develop training programs and materials for state and local regulatory personnel and private industry designed to inform about waste reduction practices and their applicability to industry;

(16) Produce a biennial report on the center's activities, achievements, problems identified and future goals, including a biennial work plan; and

(17) Participate in existing state, federal and industrial networks of individuals and groups actively involved in waste reduction activities.

SECTION 4. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall require additional information to be included in the report required of hazardous waste generators pursuant to KRS 224.864(1)(g). The information shall include a description of the measures

that have been undertaken to reduce the generation of hazardous waste by the generator, such as process alterations, equipment replacement, and feedstock substitutions; the volume of waste reduction achieved; the costs and projected savings occasioned through waste reduction; and any needs identified by the generator to achieve further waste reduction.

(2) This section shall not be construed to limit the legal protections of the confidentiality of trade secrets or business information.

(3) The cabinet shall forward a copy of the report required by subsection (1) of this section to the center, which shall utilize the information in the reports as a component of program priority development. The center shall also compile a report for the governor on a biennial basis describing the waste reduction achievements of businesses and industries within the Commonwealth.

The Committee Amendment No. 1 to **HB 722** is as follows:

Amend printed copy of **HB 722** on page 2, line 2, by deleting after the word "*university*" the following: "*designated by the governor*"; and

On page 2, line 6, by inserting after the word "*industry.*" the following: "*The center shall be governed by a board of directors appointed by the governor and representing the following organizations: the Kentucky general assembly, the natural resources and environmental protection cabinet, the economic development cabinet, the labor cabinet, the department of agriculture, the council on higher education, the Kentucky environmental education association, the Kentucky municipal league, the Kentucky chamber of commerce, the associated industries of Kentucky, the Kentucky society for professional engineers, the Kentucky resources council, and Kentuckians for the Commonwealth.*"

The Committee Amendment No. 2 to **HB 722** is as follows:

Amend printed copy of **HB 722** on page 5, on lines 3 through 13, by deleting all the language thereon and by substituting therefor the following:

"*(1) The cabinet shall provide to the center copies of all annual waste reduction reports submitted under the federal Resource Conservation and Recovery Act, as amended, and state solid and hazardous waste management regulations.*

(2) The department of military affairs shall provide upon request, to the center, the waste stream data submitted to the Kentucky emergency planning commission as required by Section 313 of the federal Superfund Amendments and Reauthorization Act of 1986."; and

on page 5, on line 14, by renumbering "*(2)*" as "*(3)*"; and

on line 17, by renumbering "*(3)*" as "*(4)*"; and

on page 5, line 17, by deleting after the "*(3)*" all the language thereafter; and

on lines 18 and 19, by deleting all the language thereon; and

on line 20, by deleting the following: "*component of program priority development.*"; and

on line 21, by deleting after the word "*shall*" the following: "*also*".

HB 733, AN ACT relating to cave protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, the following words shall have the meanings stated unless the context requires otherwise:

(1) "Cave" means any naturally occurring void, cavity, recess, or system of interconnecting passages beneath the surface of the earth including natural subterranean water and drainage systems, but not including any mine, tunnel, aqueduct, or other man-made excavation, which is large enough to permit a person to enter. The term "cave" includes or is synonymous with cavern.

(2) "Commercial cave" means any cave utilized by the owner for the purposes of exhibition to the general public, whether as a profit or nonprofit enterprise, wherein a fee for entry is collected.

(3) "Gate" means any structure or device situated so as to limit or prohibit access or entry to any cave.

(4) "Person" or "persons" means any individual, partnership, firm, association, trust, or corporation or other legal entity.

(5) "Owner" means a person who owns title to land wherein a cave is located, including a person who owns title to a leasehold estate in the land and specifically including the Commonwealth and any of its agencies, departments, boards, bureaus, commissions or authorities as well as counties, municipalities and other political subdivisions of the Commonwealth.

(6) "Speleothem" means a natural mineral formation or deposit occurring in a cave. This shall include or be synonymous with, but not restricted to stalagmite, stalactite, helectite, shield, anthodite, gypsum flower and needle, angel's hair, soda straw, drapery, bacon, cave pearl, popcorn, coral, rimstone dam, column, palette, flowstone, et cetera.

(7) "Speleogen" means an erosional feature of the cave boundary and includes or is synonymous with, but not limited to anastomoses, scallops, rills, flutes, spongework, boxwork and pendants.

(8) "Material" means all or any part of any archeaological, paleontological, biological, or historical item including, but not limited to, any petroglyph, pictograph, basketry, human remains, tool, beads, pottery, projectile point, remains of historical mining activity or any other occupation, found in any cave.

(9) "Cave life" means any life form which normally occurs in, uses, visits, or inhabits any cave or subterranean water system, excepting those animals and species covered by any of the game laws of the Commonwealth of Kentucky.

(10) "Troglobitic" means or refers to any form of cave life specifically adapted to the cave environment and which carries out its entire life cycle in the cave.

(11) "Troglophilic" means or refers to any form of cave life which, although lacking specific biological adaptations necessary for permanent residence in any cave, carries out at least a portion of its life cycle in the cave.

SECTION 2. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful for any person, without the express, prior, written permission of the owner, to wilfully and knowingly:

(a) Break, break off, crack, carve upon, write, burn, or otherwise mark upon, remove, or in any manner destroy, disturb, deface, mar or harm the surfaces of any cave or any material which may be found therein, not withstanding whether such material is attached or broken, including speleothems, speleogens, and sedimentary deposits. The provisions of this section shall not prohibit minimal disturbance for scientific exploration.

(b) Break, force, tamper with or otherwise disturb a door, lock, gate, or other obstruction designed to control or prevent access to any cave, even though entrance thereto may not be gained.

(c) Place any gate or other obstruction which may restrict the movement of air or animals through such device.

(d) Deface, tamper with or remove a sign stating that a cave is posted or citing provisions of this chapter.

(e) Excavate, remove, destroy, injure, deface, or in any other manner disturb any burial grounds, historic or prehistoric resources, archaeological or paleontological site or any part thereof, including fossils, bones, relics, inscriptions, saltpeter workings, remains of historical human activity, or any other such features which may be found in any cave, except those caves owned by the Commonwealth or designated as Commonwealth archaeological sites or zones, and which are subject to the provisions of KRS 164.705 to 164.735.

(2) The entering or remaining in a cave which has not been posted by the owner shall not by itself constitute a violation of this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful to store, dump, litter, dispose of or otherwise place any refuse, garbage, dead animals, sewage, toxic substances harmful to cave life or humans, or to store other such similar materials in any quantity in any cave. It shall also be unlawful to burn within a cave any material which produces any smoke or gas which is harmful to any naturally occurring organisms in the cave, except acetylene gas produced by carbide lamps.

SECTION 4. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) It shall be unlawful to remove, kill, harm, or otherwise disturb any naturally occurring organism found within any cave, except for safety or health reasons. Scientific collecting permits may be obtained from the state non-game biologist.

(2) It shall also be unlawful to collect any form of troglobitic or troglophilic cave life for commercial sale, whether or not a profit is gained by such sale.

SECTION 5. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the written permission of the owner required by Section 2(1), a person shall also obtain a permit from the state archaeologist prior to excavating or removing any archaeological, paleontological, prehistoric or historic feature of any cave. The state archaeologist shall issue a permit to excavate or remove such a feature if he finds that it is in the best interest of the Commonwealth and that the applicant meets the criteria of this section and is an historic, scientific or educational institution, professional archaeologist or amateur who is qualified and recognized in the areas of field investigations or archaeology. The permit shall be issued for a period of two (2) years and may be renewed upon expiration. The permit shall not be transferable; however, the provisions of this section shall not preclude any person from working under the direct supervision of the permittee.

(2) All field investigations, explorations or recovery operations undertaken under this section shall be carried out under the general supervision of the state archaeologist and the Kentucky heritage council and in a manner to ensure that the maximum amount of historic, scientific, archaeologic, and educational information may be recovered and preserved in addition to the physical recovery of objects.

(3) A person applying for a permit pursuant to this section shall:

(a) Have knowledge archaeology, paleontology or history as qualified in subsection (1) of this section;

(b) Provide a detailed statement to the state archaeologist giving the reasons and objectives for excavation or removal and the benefits expected to be obtained from the contemplated work;

(c) Provide data and results of any completed excavation, study, or collection at the first of each calendar year;

(d) Obtain the prior written permission of the owner if the site of the proposed excavation is on privately owned land; and

(e) Carry the permit while exercising the privileges granted.

SECTION 6. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any person to sell or offer for sale any speleothems in this Commonwealth, export them for sale outside the Commonwealth, or import speleothems into the Commonwealth for sale.

SECTION 7. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) Neither the owner of a cave nor his authorized agents acting within the scope of their authority shall be liable for injuries sustained by any person using the cave for recreational or scientific purposes if no charge has been made for the use of the cave, notwithstanding that an inquiry may have been made as to the experience or expertise of the person or persons seeking consent.

(2) Nothing in this section shall be construed to constitute a waiver of the sovereign immunity of the Commonwealth or any of its boards, departments, bureaus or agencies.

SECTION 8. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) Any violation of Sections 2, 3, 4 or 5(1) shall be punished as a Class A misdemeanor.

(2) Any violation of Sections 5(3) or 6 shall be punished as a Class B misdemeanor.

Section 9. KRS 433.870, Defacing or carrying away formation in cave exhibited to public, is repealed.

HB 755, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) Any person may file a notice in the alphabetical cross-index in the county clerk's office in the county where underground coal mining has occurred stating that the mineral has been extracted and that the surface overlying or adjacent to the underground workings may be subject to subsidence. The notice shall be indexed under the name of the current surface owner or lessee of record whose land overlies the underground workings, as well as that of the mineral owner and lessee, and shall be noted on the deed of conveyance in each future conveyance of both the surface and mineral estate. The language in the deed of conveyance shall state the following:

"THE COAL UNDERLYING THIS PROPERTY HAS BEEN EXTRACTED AND THE SURFACE OVERLYING OR ADJACENT TO THE UNDERGROUND WORKINGS MAY BE SUBJECT TO SUBSIDENCE. ANY STRUCTURES ERECTED HEREAFTER SHOULD BE DESIGNED AND CONSTRUCTED SO AS TO PREVENT OR MINIMIZE ANY SUBSIDENCE DAMAGE."

(2) The failure to include the required language in the deed shall not affect the validity of the deed as between the parties or constructive notice upon the recording of the deed.

(3) Nothing in this section shall be construed as superceding, modifying or amending the operator's liability under KRS Chapter 350 or the federal Public Law 95-87.

The Committee Amendment No. 1 to **HB 755** is as follows:

Amend printed copy of **HB 755** on page 2, beginning on line 3 by deleting subsection (3)

HB 793, AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Angling" means the taking or attempting to take fish by hook and line in hand, rod in hand, jugging, setline or sport fishing trotline;

(2) "Buy" includes offering to buy, acquiring or possessing through purchase, barter, exchange or trade;

(3) "Commercial trotline" is a line to which are attached more than fifty (50) single or multibarbed baited hooks, which shall not be placed closer than eighteen (18) inches;

(4) "Commission" means the department of fish and wildlife resources commission;

(5) "Commissioner" means the commissioner of the department of fish and wildlife resources;

(6) "Daylight hours" means the period from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset;

(7) "Device" means any article, instrument or equipment of whatever nature or kind which may be used to take wild animals, wild birds or fishes;

(8) "Department" means the department of fish and wildlife resources;

(9) "Fishing" means to take or attempt to take in any manner, whether the fisherman has fish in possession or not;

(10) "Grabbing" means the taking of fish, frogs, or turtles directly by hand or with the aid of a handled hook;

(11) "Gigging" means the taking of fish by spearing or impaling on any pronged or barbed instrument attached to the end of any rigid object;

(12) "Identification tag" means a marker made of specified material upon which a name and address or number is placed and attached to unattended gear to designate ownership or responsible operator;

(13) "Hunting" means to take or attempt to take in any manner, whether the hunter has game in possession or not;

(14) "Impounded waters" means any public waters backed up behind a dam and includes all water upstream from the dam to the first riffle or shoal;

(15) "Jugging" is a means of fishing by which a single baited line is attached to any floating object;

(16) "Navigable waters" means any waters within this state under lock and dam;

(17) "Nonresident" means a person who has not established a permanent domicile in this state and has not resided in this state for six (6) months immediately prior to his application for a license;

(18) "Minnows" means all fishes under six (6) inches in length, except basses (largemouth, smallmouth, or Kentucky), rock bass or goggle-eye, trout, crappie, walleye, sauger, pikes, members of the striped bass family, and muskellunge;

(19) "Prescribed by the department" means established by a regulation or regulations;

(20) "Processed wildlife" means any wildlife specimen or parts thereof that have been rendered into a permanently preserved state;

(21) "Protected wildlife" is any wildlife [~~species~~] for which an open or closed season for taking has been

designated;

(22) "Public roadway" includes rural roads, highways, bridges, bridge approaches, city streets, viaducts and bridges which are normally traveled by the general public and are under the jurisdiction of a state, federal, county or municipal agency.

(23)[~~(21)~~] "Public waters" means all waters within the state flowing in a natural stream channel or impounded on a natural stream;

(24)[~~(22)~~] "Raw fur" means a hide, fur or pelt of a fur-bearing animal which has not been processed [~~by an established commercial processor~~]. Skinning, stretching, oiling or coloring of the pelt of the animal shall not be considered processing;

(25)[~~(23)~~] "Regulation" means a written regulation adopted by the commissioner with the approval of the commission;

(26)[~~(24)~~] "Resident" means any person who has established permanent domicile and legal residence and has resided in this state for six (6) months immediately prior to his application for a license. All other persons shall be classed as nonresidents, except students enrolled for at least six (6) months in an educational institution as full time students and military personnel of the United States who are under permanent assignment, shall be classified as residents while so enrolled or assigned in this state;

(27)[~~(25)~~] "Resist" means to point a gun at, leave the scene, intimidate or attempt to intimidate in any manner or further interfere in any manner with any officer in the discharge of his duties;

(28)[~~(26)~~] "Rough fish" means all species of fishes other than those species designated by regulation as sport fishes;

(29)[~~(27)~~] "Sell" includes offering to sell, having or possessing for sale, barter, exchange or trade;

(30)[~~(28)~~] "Setline" means a line to which is attached one single or multibarbed hook. This line may be attached to a tree limb, tree trunk, bank pole or other stationary object, on the bank of a stream or impoundment;

(31)[~~(29)~~] "Snagging" is the taking of fish or other aquatic animals through the use of a hand held pole and attached line with single or multiple fish hooks in which the fish is hooked by a rapid drawing motion rather than enticement by bait;

(32)[~~(30)~~] "Sports fishing trotline" is a line to which are attached no more than fifty (50) single or multibarbed baited hooks which shall not be placed closer together than eighteen (18) inches.

(33)[~~(31)~~] "Take" includes pursue, shoot, hunt, wound, catch, kill, trap, snare, or capture, wildlife in any way and any lesser act designed to lure, attract or entice for such purposes; and to place, set, aim or use any device, animal, substance or agency which may reasonably be expected to accomplish such acts; or to attempt to do such acts or to assist any other person in the doing of or the attempt to do such acts;

(34)[~~(32)~~] "Tenant" means any resident sharecropper, lessee, or any other person actually engaged in work upon a farm or lands and residing in a dwelling on the farms or lands including noncontiguous lands, but shall not include any other employe or tenant unless actually residing on the property and engaged or employed as above mentioned;

(35)[~~(33)~~] "Transport" means to carry, move or ship wildlife from one (1) place to another; and

(36)[~~(34)~~] "Wildlife" means any *normally* undomesticated animal, alive or dead, including without limitations any wild mammal, bird, *fish* [~~fishes~~], *reptile* [~~reptiles~~], *amphibian* [~~amphibians~~] or other *terrestrial or* aquatic life, whether or not possessed in controlled environment, bred, hatched or born in captivity and including any part, product, egg or offspring thereof, protected or unprotected by this chapter.

Section 2. KRS 150.092 is amended to read as follows:

(1) *No person shall enter upon the lands of another to shoot, hunt, trap or fish without the oral or written consent of the owner or tenant.*

(2) Any conservation officer shall upon written complaint of the owner or *tenant* [~~occupant~~] arrest any person who is violating *this section* [~~KRS 150.993(2) or (3)~~], if the officer is already on the land for the purpose of enforcing other provisions of this chapter. The officer *may* [~~is authorized to~~] arrest on his own initiative for a violation of any provision of *this section* [~~KRS 150.993(2) or (3)~~], whether or not he is already on the land for the purpose of enforcing other provisions of this chapter. He *shall* [~~is~~] not *be* required to make an arrest unless he is already so on the land.

(3)[~~(2)~~] Nothing in this section shall be construed to limit the existing powers of peace officers.

Section 3. KRS 150.175 is amended to read as follows:

The kinds of licenses and tags authorized by this chapter, and the acts authorized to be performed under such licenses and tags, subject to the other provisions of this chapter and subject to regulations adopted under this chapter, are as follows:

(1) Statewide resident sport fishing license which authorizes the holder thereof to take fishes by angling, or take crayfish by a minnow seine, or by hand, to take minnows by the use of a minnow seine, minnow trap or dip net, or to take fishes by grabbing, gigging, snagging, snaring, jugging, and bow and arrow, and to take frogs and turtles from any waters in any county of this state open for such purposes and subject to the limitations hereinafter set forth and such additional limitations as the department may from time to time prescribe; this license does not authorize the holder to sell fish;

(2) A short term sport fishing license which may be issued only to a nonresident and which authorizes the holder thereof to perform all acts authorized by a statewide sport fishing license and subject to the same limitations or prescribed regulations. This license does not authorize the holder to sell fish;

(3) A resident commercial fishing license and a nonresident commercial fishing license, which authorizes a holder thereof to perform any act authorized by a sport fishing license and to take rough fishes from the waters of the state by the use of commercial fishing gear as prescribed by regulation. Such license shall also authorize the holder thereof to sell rough fishes, other than those protected by regulation;

(4) An Ohio River sport fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to take fish from the Ohio River only by any method authorized under a statewide sport fishing license. This license does not authorize the holder to sell fish;

(5) An Ohio River commercial fishing license, which may be issued only to a citizen of Ohio, Indiana or Illinois, and which authorizes the holder thereof to exercise in the Ohio River only the same privileges that may be exercised under a commercial fishing license, as defined in subsection (3) of this section, provided that the holder of such license has first obtained a tag or tags for each piece of commercial fishing gear in possession including each seine, net, trap, and line;

(6) A commercial fishing gear tag must be attached to each piece of commercial fishing gear including hoop nets, slat traps, trotline, wing nets, and to each one hundred (100) feet of linear gear or portion thereof in use including commercial seines, gill nets or trammel nets. Commercial gear tags may be issued only to a person holding a resident or nonresident commercial fishing license or an Ohio River commercial fishing license;

(7) Live fish and bait dealer's licenses, resident and nonresident, which authorize the holder thereof to sell bait and live fish as may be prescribed by regulation;

(8) Musseling licenses, resident and nonresident, which authorize the holder thereof to take mussels for commercial purposes as may be prescribed by regulation;

(9) A statewide resident hunting license, which authorizes the holder thereof to take or pursue wild animals, wild birds, frogs and turtles with gun, bow and arrow, dog or falcon, or to participate in a fox-hunting party engaged in the hunting or pursuing of foxes with dogs for sport, according to the provisions of the laws and regulations of the department;

(10) A junior statewide hunting license, which may be issued only to a resident of this state, before he has reached his or her sixteenth birthday, but which becomes void on his or her sixteenth birthday, and which authorizes the holder thereof to exercise all the privileges authorized by a statewide hunting license; provided that no junior hunting license shall be issued without the written permission of parent, guardian or person having custody of such person under 16 years of age;

(11) Trapping licenses, resident and nonresident, which authorize the holder thereof to take wild animals by trapping upon his own lands or upon the lands of another person, provided that the holder of such license shall have first obtained a written consent as provided in KRS 150.410;

(12) A taxidermist's license, which authorizes the holder thereof to engage in the business of preparing, stuffing and mounting the skins of wildlife;

(13) A commercial guide's license, which authorizes the holder thereof to guide hunting and fishing parties according to the provisions of the laws and regulations of the department;

(14) Fur buyer's licenses, resident and nonresident, which authorize the holder thereof to buy raw furs from licensed trappers and hunters and to sell raw furs so purchased. Applicants for such license shall state the number of premises to be used and shall display at each a copy of same as furnished by the department except that the commissioner may limit the number of copies furnished and may revoke license for violation;

(15) A fur processor's license, which may be issued only to a resident, a partnership, firm or corporation of this state and which authorizes the holder thereof to buy raw furs when in legal possession for processing, manufacture or retention in cold storage or for resale;

(16) A nonresident sport fishing license which authorizes the holder thereof to perform any act authorized by a resident statewide sport fishing license. This license does not authorize the holder to sell fish;

(17) A nonresident annual hunting license which authorizes the holder thereof to perform any act authorized by a resident statewide hunting license;

(18) A special license to nonresidents for the purpose of hunting on licensed hunting preserves. This license is good only for the preserve for which it was issued and shall continue legal only for one (1) year. These licenses shall be issued in ink by the preserve manager, and it becomes his responsibility to see that each hunter is properly licensed before going into the field. When the hunter owns either a nonresident or resident statewide hunting license for the current year, the special license shall not be required. The commissioner, with the approval of the commission, shall have the authority to establish and regulate hunting preserves, either private or commercial;

(19) A big game permit, which, in combination with a valid statewide hunting license or a valid junior statewide hunting license, authorizes the holder thereof to take or pursue deer, bear or wild turkey, in any designated open area of this state, during the open season and according to the provisions of the laws and regulations governing such hunting;

(20) A combination hunting and fishing license, which authorizes only resident holders to perform all acts valid under either a sport fishing or hunting license;

(21) A trout stamp, which *in combination with a valid statewide fishing license, authorizes the holder thereof to take trout by angling or as may be prescribed* [~~may be established~~] by regulation [~~in accordance with KRS 150.225~~];

(22) A commercial waterfowl permit, which authorizes the holder thereof to establish and operate a commercial waterfowl hunting preserve;

(23) Effective January 1, 1986, a husband and wife shall be issued a joint statewide resident sport fishing license, upon their request, which authorizes them to take fish as provided in subsection (1) of this section. The license fee for this joint license shall be ten percent (10%) less than the license fee set by the commission for two statewide resident sport fishing licenses.

(24) A Kentucky waterfowl stamp, which in combination with a valid statewide hunting license and a valid migratory bird hunting stamp, authorizes the holder thereof to take or pursue migratory waterfowl.

Section 4. KRS 150.180 is amended to read as follows:

(1) Except as otherwise provided in this section or elsewhere in this chapter, and subject to regulations adopted under this chapter, no person, for himself or as the agent or employe of another shall buy, or sell, or attempt to buy, or sell, barter, exchange, or trade, or have in possession for the purpose of selling, bartering, or trading any protected wildlife or part thereof, [~~or~~] raw fur *or processed wildlife,* no matter where or when caught or killed, whether caught or killed in this state or in any other state or other country.

(2) Mussels and fishes, other than sport fishes as designated by departmental regulations, and all fishes, regardless of species, raised by licensed propagation permittees may be bought, sold and transported, if in legal possession.

(3) Raw furs, if in legal possession, may be sold, transported or shipped, by a licensed trapper or licensed hunter to a licensed fur buyer (resident or nonresident), and by a licensed fur buyer to a licensed fur processor or to another fur buyer if in legal possession. Raw furs may be held in possession by a trapper or hunter twenty (20) days and a fur buyer for thirty (30) days following the close of the season. A fur processor may hold raw furs or sell to another licensed fur processor at any time.

(4) Subject to regulations adopted under this chapter, a person who has been issued a license under this chapter and who has the license on his person may transport anywhere as a part of his personal baggage any protected wildlife legally taken by him under such license, not in excess of the number that the law or regulation permits him to have in possession at any one (1) time.

(5) A person who has legally taken any protected wildlife in another state and who has in his possession the license which authorizes such taking may, if the same be dead, transport the same in this state, as part of his personal baggage at any time during the open season for the particular species in the state in which taken or within ten (10) days after the close of such season. Any person may ship dead game or dead fish so taken subject to the provisions of the laws of the state in which the same was taken and the laws and regulations of the United States relating thereto.

(6) No person shall import or transport into the state of Kentucky or receive shipment in the state from without the state, any live wildlife without first procuring from the department a written permit to do so. If it is determined upon inspection that such wildlife would not constitute a menace to the state and is free from disease and other undesirable physical characteristics, the commissioner shall issue such a permit free of charge.

(7) No person may at any time stock any species of fish secured from any source into the public waters of the Commonwealth without first securing a permit from the commissioner.

(8) This section shall not in any way interfere with the transportation of any wildlife by the authorized personnel of the department.

(9) Federal and state regulations shall govern the transportation of all migratory wild birds.

Section 5. KRS 150.200 is amended to read as follows:

The commissioner shall cause to be delivered to each county clerk, not less than ten (10) days before *the end of the license year* [~~January 1 of each year~~], unless otherwise provided, as many licenses, tags and forms as may be required, and charge each clerk for the number issued to him. On or before *twenty-five (25) days after the end of each license year,* [~~January 25 of each year~~] each county clerk shall return to the department all unused licenses, stubs and unused tags which he has received for the preceding *license* year. The licenses and tags shall specify the *license* [~~calendar~~] year for which they are issued. *The department shall, by regulation, specify the license year; and all licenses, tags and permits, except those which by regulation shall expire in a specified period from date of issue, shall expire upon the end of the last day in the license* [~~and all licenses, tags and permits authorized to be issued by this chapter, whether by the department or by a county clerk, shall expire on December 31 of that calendar year, except fur buyers license which shall expire July 1 each~~] year.

Section 6. KRS 150.225 is amended to read as follows:

The department of fish and wildlife resources shall, by its commission, prescribe reasonable license fees relating to hunting, fishing, and trapping. Provided, however, the department shall set no private license fee at less than one dollar ($1.00) nor more than *two hundred dollars ($200)* [~~one hundred dollars ($100)~~], and no commercial license fee at less than two dollars ($2.00) nor more than *fifteen hundred dollars ($1,500)* [~~five hundred dollars ($500)~~].

Section 7. KRS 150.230 is amended to read as follows:

(1) The county clerk or any agent designated by the department under the provisions of subsection (3) of KRS 150.190 shall retain a fee pursuant to KRS 64.012 out of the money received by him for licenses and tags.

(2) Such fees shall cover the swearing of the applicant to his application and all other services under this chapter. The county clerk shall pay the remainder of the license fees, after deducting therefrom his fee, to the state treasurer on or before the tenth day of each month, which amount shall be credited to the game and fish fund. The county clerk shall report to the commissioner on or before the tenth day of each month the number and kind of licenses and tags issued and the amount of money remitted to the state treasurer. The county clerk shall report to the commissioner on or before *twenty-five (25) days after the close of the license* [~~January 25th each~~] year the number and kind of licenses and tags issued the preceding year and the amount of money remitted to the state treasurer.

Section 8. KRS 150.235 is amended to read as follows:

(1) No person shall perform any act authorized to be performed by any of the various licenses provided for in this chapter without first procuring the type of license which authorizes the performance of such act and unless at the time of the performance of such act he has the license provided therefor on his person, except that in the case of a fur processor it shall be sufficient if the license is posted in a conspicuous place upon the licensed premises.

(2) Wherever in this chapter reference is made to the "holder" of a license, it means the person in whose name the license was issued. No person to whom a license has been issued under this chapter may authorize or permit any other person to carry his license. No person shall present the license of another person to a conservation officer for inspection while in the act of hunting or fishing.

(3) No nonresident shall perform any act under this chapter without first procuring the proper nonresident license.

(4) No person who has had his privilege to perform an act authorized under this chapter revoked or suspended shall possess the kind of license that would otherwise permit the act for the period of the suspension.

Section 9. KRS 150.330 is amended to read as follows:

(1) [~~No person shall take any wild birds or wild animals except during the open season prescribed by the department for the particular species. No person shall take quail, ruffed grouse, wild turkey, rabbit, squirrel or deer except during daylight hours.~~

~~(2)~~] No person shall take, pursue, possess, transport, purchase or sell or attempt to do so, any migratory birds, except as authorized by the migratory bird treaty act (40 stat. 755) as amended and regulations under it.

(2)[~~(3)~~] No person sixteen (16) years of age or older shall hunt any waterfowl unless, at the time, in addition to the appropriate state hunting license *and Kentucky Waterfowl Stamp,* he has on his person a valid migratory bird hunting stamp of current issue as required by the migratory bird hunting stamp act (48 stat. 451) as amended.

Section 10. KRS 150.390 is amended to read as follows:

(1) No person shall *possess,* take, pursue, or attempt to take or pursue or otherwise molest any [~~elk,~~] deer, wild turkey or bear unless the commissioner, with the approval of the commission, finds conditions and population that warrant an open season, *and* then regulations shall be enacted to govern same.

(2) [~~It shall be unlawful for any person to cast the rays of a spotlight, jacklight, or other artificial lighting devices on any highway or in any field, woodland, or forest, while having in his possession, or under his control, a firearm or other implement by which a deer or rabbit could be killed, even though such game be not shot at, injured or killed.~~

~~(3)~~] It is unlawful for any *person to use a* dog to chase or molest deer in any manner, at any time, or at any place. Any conservation officer, peace officer, sheriff or constable may take necessary steps to stop, prevent, or bring under control any dog, or dogs, found chasing or molesting deer at any time.

(3)[~~(4)~~] It shall be unlawful to shoot or attempt to shoot any wildlife, protected or unprotected, from an automobile, or other vehicle, at any time or place. Boats may be used except as prohibited by state or federal regulations.

(4)[~~(5)~~] It shall be unlawful to take, pursue, or attempt to take or pursue or otherwise molest any deer or wild turkey in any manner contrary to regulations promulgated under the authority of subsection (1) of this section.

Section 11. KRS 150.410 is amended to read as follows:

(1) [~~No person shall set a trap on the land of another without written permission of the owner of the land, and he shall exhibit such written consent to any agent or employe of the department or to any other person lawfully demanding to examine the same.~~

~~(2)~~] No person shall set, use or maintain a trap for the purpose of taking wildlife unless there is attached thereto a metal tag giving the name and address of the person setting, using or maintaining trap. The commission *may* [~~is authorized to~~] furnish *a* [~~such~~] tag, at cost, to applicants therefor.

[~~(3) Each person who sets, uses or maintains a trap or traps for the purpose of taking wildlife shall, within twenty-four (24) hours from the time such traps are set, give a written description of the location of the trap line, or any changes made therein, to the conservation officer for the county in which the traps are located or to the commissioner. The owner of the land on which traps are set and resident members of his family shall not be required to comply with the provisions of this subsection.~~]

(2)[~~(4)~~] Each person who sets a trap for the purpose of taking wildlife shall visit the same at least once every twenty-four (24) hours and *remove* [~~release~~] any wildlife found therein.

(3)[~~(5)~~] No person shall set a trap in such manner as unreasonably to endanger the life or safety of any domestic animal.

Section 12. KRS 150.460 is amended to read as follows:

(1) No person, firm or corporation, whether acting in a private or public capacity, shall place or cause to be placed in any public waters any substance that might injure, interfere with or cause the waters to be unfit for the support of wildlife. When any employe of a person, firm or corporation, in the course of his employment, places or causes to be placed any such substance in any public waters, his act shall be prima facie evidence of the guilt of both the employe and the employer, and either one (1) or both may be punished as provided in subsection (4) of KRS 150.990. Each day that this section is violated shall constitute a separate offense. This section does not apply to employes or agents of the department acting in an official capacity.

(2) No person shall use, or attempt to use any electrical device (fish-finding devices excepted) of any type (such as telephone, or electrical leads from a magneto, or battery, or motor or any other type of electrical equipment) in any stream or body of water. This does not prevent the authorized employes or agents of the department from using this or any devices in research or investigational work.

(3) No person, except employes or agents of the department, shall willfully place or attempt to place

in any of the public waters of the state any substance which has a poisonous or intoxicating effect upon wildlife.

(4) No person shall kill, injure, shock or stun or attempt to kill, injure, shock or stun any fishes by any explosive agent, *firearm* or other device. This provision shall not apply to employes or agents of the department acting in an official capacity.

Section 13. KRS 150.520 is amended to read as follows:

The department shall make such requirements and regulations governing the [~~operations of boats in the~~] taking of mussels as it may deem best for the proper enforcement of this chapter. To prevent depletion of the mussel beds and to insure proper propagation of the mussels, the department may close any beds to operators at any time and for such length of time as it deems necessary. During such closed season on any bed no one shall take mussels therefrom. When an order is issued closing any mussel bed, due notice of the same shall be published pursuant to KRS chapter 424.

Section 14. KRS 150.525 is amended to read as follows:

No person may engage in the buying of mussel shells or mussels in the shell in this state unless he has in his possession a license authorizing him to do so. The [~~annual fee for such license shall be one hundred dollars ($100) for a resident of this state, and three hundred dollars ($300) for a nonresident of this state. Such~~] license shall be issued by the department, either directly or through such county clerks as the commissioner may designate for the purpose.

Section 15. KRS 150.620 is amended to read as follows:

For the purpose of encouraging and developing public interest in wildlife and carrying out the policy of the Commonwealth of Kentucky under Chapter 150 of the Kentucky Revised Statutes, the department of fish and wildlife resources commission, as a state agency, and based upon investigations and recommendations of the commission, is hereby authorized to acquire lands including any improvements thereon by purchase, condemnation or lease from the state property and buildings commission or from others, and partly by any or all of such means, and to thereafter establish, improve, maintain and operate public shooting and fishing grounds and similar or related recreational facilities thereon, and for the purpose of paying the cost of any such purchase or condemnation and the maintenance and operation expenses may use and apply any funds available for that purpose. The payments under each such lease shall be deemed an administrative and operating expense of the department, and such payments may be secured by a pledge of and made from all or any part of the funds coming under the control of the department including the game and fish fund, as may be provided and specified in the lease. The commissioner, with the approval of the commission may sublease any lands and improvements thereon acquired under the provisions of this chapter for agricultural and for any purpose deemed by the commission to be incidental or beneficial to the maintenance and operation of the balance of said lands and improvements for the purpose herein stated. The commission may impose and enforce special regulations in the maintenance and operation of the facilities *and lands* acquired under the provisions of this section and charge such rates as may be deemed fair and reasonable for the use of and participation of the public in the facilities *and lands* and lease payments aforesaid may be made a first charge on the income and revenues from the maintenance and operation of the facilities *and lands* and from the sublease of any portion thereof, to be supplemented with any other funds available for that purpose.

Section 16. KRS 150.660 is amended to read as follows:

(1) Any person may establish a pay lake subject to the approval of the commissioner of the department of fish and wildlife resources, who shall have the authority to approve or reject the establishment of pay lakes and issue to the owners of such lakes a license or permit for their operation.

(2) [~~The license for the operation of a pay lake, after approval by the commissioner, shall be determined on a graduating cost per water surface acre as follows: Fifty dollars ($50.00) for the first two (2) acres or less than two (2) acres and ten dollars ($10.00) per acre for each additional acre until the total amounts to one hundred dollars ($100) which shall represent the maximum amount that shall be paid by any pay lake owner regardless of the number of acres. If a person, persons, or firm owns more than one (1) lake within one-half (1/2) mile from another lake the total acres of all lakes shall be computed as if one (1) lake and license so issued. These licenses shall be due and payable on January 1 and shall be valid for a period of one (1) year.~~]

[~~(3)~~] When a pay lake is licensed by the department, the commissioner shall issue to the owner, consecutively numbered permits to be issued to pay lake patrons. These licenses shall be issued without cost to the patron who desires to fish in said pay lake and are good only for any licensed pay lake within the state and shall be valid for one (1) year beginning January 1. These licenses shall be issued by the pay lake owner or operator at the headquarters on the property where the pay lake is located, and it becomes his responsibility to see that each fisherman is properly licensed before fishing. When the fisherman owns either a statewide or nonresident fishing license for the current year, the special permit shall not be required. If a fisherman owns a ten (10) day license for the current year and uses it at a pay lake on the dates indicated on the license, no special permit shall be required.

(3)[~~(4)~~] Any pay lake owner or operator that fails to comply with the laws or regulations governing the operation of a pay lake may have his operator's license revoked by the commissioner.

(4)[~~(5)~~] Any person operating a commercial fishing pond or lake that does not comply with the provisions of KRS 150.660 and 150.670, must require that his patrons have a regular resident, nonresident, or ten (10) day fishing license.

Section 17. KRS 150.670 is amended to read as follows:

(1) All persons except minors under sixteen (16) years of age and residents of this state over sixty-five (65) years of age shall be required to have either a special pay lake permit or a regular valid state fishing license.

(2) *No person, except those exempted elsewhere in this chapter, shall fish in a licensed pay lake without possessing a valid special pay lake permit or a valid statewide fishing license* [~~Conservation officers and other officers charged with the enforcement of the provisions of KRS 150.650 to 150.670 and 150.990 (10), shall not be hindered by pay lake owners and shall have authority to call for and inspect the license or permit of any person fishing in any pay lake~~].

Section 18. KRS 149.410 is amended to read as follows:

The commonwealth's attorney or county attorney shall initiate and prosecute appropriate abatement proceedings by injunction or otherwise, for the prevention or correction of any condition constituting or threatening to constitute a violation of KRS 149.360 to 149.430. The institution or pendency of a proceeding pursuant to this section shall not bar the imposition of any penalties or the securing of any other relief provided by KRS 149.360 to 149.430, 149.991, [~~150.992,~~] 277.990, 512.020 to 512.040, or rules or regulations promulgated thereunder.

Section 19. KRS 431.451 is amended to read as follows:

(1) Offenses for which citations may be issued and for which the minimum fine may be prepaid are: KRS 150.170, 150.175, 150.237, 150.280, 150.290, 150.305, 150.320, 150.340, 150.370, 150.400, 150.410, 150.412, 150.440, 150.445, 150.450, 150.470, 150.660, [~~150.993,~~] 186.020, 186.050, 186.070, 186.190, 189.020, 189.025, 189.030, 189.040, 189.045, 189.050(1)(2), 189.055, 189.060, 189.070, 189.080, 189.090(1)(2)(3), 189.095, 189.100, 189.110, 189.120, 189.130, 189.140, 189.150, 189.160, 189.170, 189.190, 189.205, 189.231, 189.285, 189.290, 189.300, 189.310, 189.330, 189.338, 189.340, 189.350, 189.375, 189.380, 189.390, 189.430, 189.450, 189.470, 189.480, 189.550, 189.560, 189.570, 189.580(2), 189.820, 189.940(5), and 222.202.

(2) Offenses for which citations may be issued but for which no prepayment of the fine may be made are: KRS 138.570, 138.630, 138.665, 177.230, 177.300, 186.052, 186.053, 186.170, 186.200, 186.210, 186.410, 186.450, 186.510, 186.540, 186.600, 186.610, 186.620, 186.630, 187.990(2), 189.050(3)(4), 189.090(4), 189.221, 189.222, 189.223, 189.224, 189.270, 189.370, 189.393, 189.500, 189.505, 189.520, 189.530, 189.565, 189.580, 189.751, 189.920, 189.930, 189.950, 281.615, 281.720, 281.726 and 281.804.

Section 20. The following KRS sections are repealed:

150.992 Penalty for use of smoke or explosives to capture game.

150.993 Penalty for entry on land without consent.

HCR 17. A CONCURRENT RESOLUTION relating to small coal mine operators.

WHEREAS, many small surface and underground coal mine operators have been forced to go out of business because of oppressive federal Office of Surface Mining (OSM) and Mine Safety and Health Administration (MSHA) regulations; and

WHEREAS, certain provisions of the federal surface coal mine law and their interpretation and enforcement by OSM and requirements of the federal underground coal mine laws and regulations have brought about an increase in Kentucky's welfare recipients; and

WHEREAS, this loss of gainful employment has lowered the self esteem of many Kentuckians living in coal-producing counties and has caused them much emotional stress; and

WHEREAS, an episode of the television program "Sixty Minutes" very ably depicted the intolerable position in which the federal surface coal mining law and regulations have placed the Hardly Able Coal Company and many other small surface and underground coal mine operators;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That federal and state authorities review the laws and regulations controlling surface and underground coal mining with the goal of providing flexibility in the laws and regulations which will not be destructive of local economies.

Section 2. That copies of this resolution be sent to President Reagan, the Director of OSM, the Assistant Secretary for the federal Mine Safety and Health Administration, the Secretary of the Kentucky Natural Resources and Environmental Protection Cabinet, and the Commissioner of the Department of Mines and Minerals.

The Committee Amendment No. 1 to **HCR 17** is as follows:

Amend printed copy of **HCR 17** on page 1, by deleting the last "and" in the paragraph beginning with the third "WHEREAS,";

and by deleting the following paragraph beginning with the fourth "WHEREAS".

HJR 70, A JOINT RESOLUTION continuing the Kentucky Water Management Task Force.

WHEREAS, the General Assembly realizes the extreme importance of the state's water resource to the health and welfare of all Kentuckians; and

WHEREAS, the 1982 General Assembly created and the 1986 General Assembly reestablished the Kentucky Water Management Task Force to assist the Natural Resources and Environmental Protection Cabinet " in the development of a plan for the total management of the state's water resource"; and

WHEREAS, the task force provides a vehicle for citizen participation in discussion of water issues across the state and the need for continued discussion is important to the development of Kentucky's water resource; and

WHEREAS, the General Assembly is aware that the proper planning for the wisest utilization of the state's water resource is complex and time consuming and requires additional fact-findings;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Legislative Research Commission, intending to obtain information and determine the facts about the management of Kentucky's water resource, shall appoint members to serve on the reestablished Kentucky Water Management Task Force. The task force shall consist of the following members: two members of the House of Representatives, one member of the Senate; and one each from the Natural Resources and Environmental Protection Cabinet, the Cabinet for Human Resources, Kentucky Geological Survey, Kentucky Department of Agriculture, Commerce Cabinet, Kentucky Association of Counties, Kentucky Municipal League, Kentucky Flood Control Advisory Commission, Kentucky Rural Water Association, Inc., Kentucky Conservation Committee, Society of Professional Engineers, Kentucky Medical Association, League of Kentucky Sportsmen, and two industry representatives. The member from the Commerce Cabinet shall be experienced in economic development. The member from the Society of Professional Engineers shall be experienced in water-related projects. One of the three members of the General Assembly appointed to the task force shall be chairperson.

Section 2. The Kentucky Water Management Task Force shall obtain information from any source for the purpose of determining the facts in relation to the continued development and implementation of state government's plan for the management of the Commonwealth's water as provided in KRS Chapters 146, 151, and 224, with particular attention to water supply.

Section 3. That state agencies shall report information to the task force as requested.

Section 4. That each of the state agencies having a member on the task force shall assign a staff person to work with the task force to assure that the task force can accomplish its purpose. The role of the Legislative Research Commission staff shall be to coordinate staff assigned by the state agencies.

Section 5. That the members of the task force shall be reimbursed their expenses in attending meetings, and the task force shall report any findings, conclusions, recommendations, and legislative proposals to the Legislative Research Commission by September 1, 1989.

Section 6. That Legislative Research Commission staff services to be utilized in the conduct of this effort are estimated to cost $24,000, and shall be provided from the regular commission budget, subject to the limitations and other research responsibilities of the Commission.

Motions, Petitions and Communications (continued)

Representative Lyne moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Lyne moved the adoption of the following **HR 135**:

HR 135, A RESOLUTION honoring Hank Hancock.

WHEREAS, on this day in 1936, C. M. "Hank" Hancock was born; and

WHEREAS, it is the wish of this body to pay tribute to its distinguished members upon certain special occasions; and

WHEREAS, today is such an occasion for Hank Hancock;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House wishes Hank Hancock a happy birthday and many happy returns.

Section 2. That a copy of this resolution be sent to Hank Hancock.

HR 135 was adopted by voice vote.

Representative Lyne moved that a call of the roll be taken to show co-sponsors of **HR 135**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 135**: Allen, Ark, Arnold, Ballard, Blandford, Blevins, M. Brown, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Guenthner, Handy, J. Harper. Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Meyer, Napier, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Riner, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington.

Representative Freibert moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Freibert moved that she be recorded as voting "yea" on **SB 38**, **HB 625**, **HB 633**, **SB 188**, **HB 447**, **HB 495**, **HB 515**, **HB 530**, **HB 592**, **HB 593** and **HB 652**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **SB 12**, **HB 593**, **HB 592** and **HB 515**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **SB 12**. Agreed.

Representative R. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative R. Smith moved that his vote be changed from "nay" to "yea" on **HB 662**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 204, Representative Long; **HB 217**, Representative Maggard; **HB 228**, Representatives Crupper, Gregory, Meyer, P. Richardson; **HB 682**, Representative Geveden; **HB 721**, Representative Reinhardt; **HB 894**, Representative Barrows; **HB 914**, Representative Casebier; **HB 917**, Representative Donnermeyer; **HB 944**, Representative Burch.

The following members filed requests to have their names withdrawn as co-sponsors:

HB 494, Representative L. Clark; **HB 730**, Representative Will; **HB 776**, Representative Seum.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to **HB 173**, by Representative Kerr:

Amend printed copy of **HB 173** on page 3, line 14, delete the brackets and strike throughs from "[~~single or double family~~]: and

on page 3, line 16, after "*improvements*" insert "*for agricultural or personal use*"; and

on page 3, line 21, after "the" insert "*last*" and place brackets around and strike through "first" and insert before "ten" the following: "*forty-five (45)* and place brackets around and strike through "ten (10)"; and on page 4, lines 6-7, delete the underlined language; and

on page 4, lines 7-8, remove the brackets and strikes from the language so bracketed and struck through; and

on page 4, line 8, before "has" insert "*or owner of other property as described in this subsection*"; and

on page 4, line 13, after "subsection." insert "*This subsection shall apply to the construction of single or double family homes constructed pursuant to a construction contract with a property owner and intended for use as the property owner's dwelling.*"

Floor Amendment No. 2 to **HB 494**, by Representative Noe:

Amend printed copy of **HB 494** on page 11, lines 3 and 4, by deleting "*the prescribed*" and inserting "*a twenty-five dollar ($25) initial*"; and

on page 11, line 7, after the period "." insert the following:

"*An annual renewal fee to maintain a valid certificate may be prescribed by the commission.*"

Floor Amendment No. 1 to **HB 796**, by Representative Yates:

Amend printed copy of **HB 796** on page 1, line 3, by deleting "*and counties*" and by substituting therefor "*and in counties containing a city of the first class*"; and

on page 3, line 21, by deleting "*or*", and on page 3, line 22, by deleting "*county*" and by substituting therefor "*, or in counties containing a city of the first class, with the county*"; and

on page 4, line 6, after the word "*county*" by inserting the words "*containing a city of the first class*"; and

on page 5, line 13, by inserting after the word "*county*" the words "*containing a city of the first class*"; and

on page 5, line 14, by inserting after the word "*county*" the words "*containing a city of the first class*"; and

on page 5, line 16, by inserting after the word "*county*" the words "*containing a city of the first class*"; and

on page 6, line 3, by inserting after the word "*county*" the words "*containing a city of the first class*"; and

on page 6, line 7, by inserting after the word "*county*" the words "*containing a city of the first class*"; and

on page 6, line 19, by deleting the words "*or county*" and by inserting after the word "agency" the words "*or an agency in a county containing a city of the first class,*"; and

on page 7, line 9, by inserting after the word "*counties*" the words "*containing a city of the first class*"; and

on page 8, line 12, by inserting after the word "*county*" the words "*containing a city of the first class*"; and

on page 9, line 1, by inserting after the word "*county*" the words "*containing a city of the first class*"; and on page 9, line 17, after the word "*county*" by inserting the words "*containing a city of the first class*".

The Clerk announced the following meeting:

The Committee on Rules, Speaker's Office, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 4, 1988.

On the roll call the vote was yeas 81-Adams, Adkins, Allen, Altman, Ark, Ballard, Barrows, Blandford, J. Brown, M. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates. Nays 5-Blevins, Bronger, Guenthner, LeMaster, Overstreet.

The motion to adjourn was adopted.

FRIDAY, MARCH 4, 1988

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Joe Adams, Bardstown, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 3, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 231**, **SJR 50**, **HB 638** with Senate Amendment, **HB 288** and **HB 469**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills:

Business Organizations and Professions: **SB 273**.

Counties and Special Districts: **SB 271**.

Education: **SB 164**.

Health and Welfare: **SB 235**.

State Government: **SB 208**, **SB 213**.

Transportation: **SB 275**.

Report of Committees

The Committee on Rules reported **HB 570**, **HB 87**, **HB 238**, **HB 378**, **HB 543**, **HB 627**, **HB 632**, **HB 653**, **HB 689**, **HB 697**, **HB 16**, **HB 293**, **HB 436**, **HB 505**, **HB 512**, **HB 589**, **HB 629**, **HB 644**, **HB 663**, **HB 674**. **HB 694**, **HB 711**, **HB 721**, **HB 766**, **HB 772**, **HB 776** and **HB 796** have been posted for passage in Orders of the Day, March 9, 1988.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, March 9, 1988: **HB 578**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 573**, **HB 608**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HB 929**, **HB 310**, **SJR 44**, **HB 895**, **HB 879**, **HB 875**.

Energy: **HB 866, HB 873, HB 874, HCR 120, SB 201.**

Transportation: **HB 13, HB 32, HB 49, HB 277, HB 466, SB 14, HB 620, HB 707, HB 706.**

Judiciary-Civil: **HB 984, HB 837.**

Health and Welfare: **HB 816, HB 868, HB 944, HB 982, HB 1014, SB 184, HB 251, HB 851, HB 968, HCR 124, HCR 125, HCR 130, HJR 132.**

Agriculture and Small Business: **HB 993, HB 992.**

Business Organizations and Professions: **HB 806, HB 894.**

Calendar

HB 470. HB 728, HB 20, HB 521, HB 536, HB 545, HB 555, HB 671, HB 7, HB 244, HB 235, HB 443, HJR 51, HB 36, HB 514, HB 667, HB 668, SB 217, SB 223, HB 371, HB 488, HB 492, HB 517, HB 557, HB 609, HB 636, HB 658, HB 703, HB 719, HB 747, HB 761, HB 855, HCR 114, HB 519, HB 684, HB 709, HB 722, HB 733, HB 755, HB 793, HCR 17 and **HJR 70** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 752 and **HB 841** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 136**:

HR 136. A RESOLUTION honoring Judith Kemp.

WHEREAS, Judith Kemp is the 22-year-old daughter of U.S. Representative Jack Kemp; and

WHEREAS. Jack Kemp is a Republican candidate for President of the United States; and

WHEREAS, the campaign trail is an arduous one, demanding of time and devotion from friends and supporters; and

WHEREAS, Judith Kemp, a graduate of Miami of Ohio University, has dedicated herself to traveling throughout our great country on behalf of her father; and

WHEREAS, this demonstration of commitment and family support is an admirable and positive thing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That Congressman Kemp is a fortunate man to enjoy the loving support of his daughter.

Section 2. That Judith Kemp is to be commended for her tireless devotion to her father and for her dedication to the principles of democracy.

HR 136 was adopted by voice vote.

HB 441, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 441**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 441**. Agreed.

Representative Stumbo moved that **HB 441**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 50, Nays 43. (See March 4, 1988 roll call on **HB 441** - Appendix A.)

HB 441, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 441**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 188**, **HB 67**, **HB 340** and **HB 413** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:25 p.m.)

HB 67, **HB 340** and **HB 413** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 670, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved the adoption of Committee Amendment No. 1 to **HB 670**. Agreed.

Representative Reinhardt moved that **HB 670**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 4, 1988 roll call on **HB 670** - Appendix A.)

HB 670, as amended, was passed.

Representative Reinhardt moved the adoption of the Committee Title Amendment to **HB 670**. Agreed; and the title was agreed to.

Representative Reinhardt moved that the vote by which **HB 670**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 640, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved the adoption of the Committee Substitute to **HB 640**. Agreed.

Representative L. Clark moved that **HB 640**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 4, 1988 roll call on **HB 640** - Appendix A.)

HB 640, by way of Committee Substitute, was passed and the title agreed to.

Representative L. Clark moved that the vote by which **HB 640**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 318, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of Floor Amendment No. 1 to **HB 318**.

On the roll call the vote was yeas 49-Ackerson, Allen, Altman, Ark, Arnold, Ballard, Bronger, J. Brown, Bruce, L. Clark, P. Clark, Clarke, Crupper, Deskins, Farrow, Freibert, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hourigan, Johnson, R. Jones, Kerr, Layman, Lear, LeMaster, Little, Maggard, McElroy, Morris, Nett, Noland, O'Brien, Overstreet, Priddy, Pritchett, Richards, Ridley, Riner, Robinson, B. Smith, Todd, Turner, Walker, Worthington, Yates. Nays 36-Adams, Adkins, Barrows, Blevins, Burch, Callahan, Castleman, Cline, Curd, Cyrus, Donnermeyer, Ford, Gedling, Geveden, Gray, Hatcher, A. Jones, T. Jones, Keith, Lefevers, Long, Lundergan, Lyne, Mack, Mason, McBee, Noe, Preston, Rapier, Reinhardt, B. Richardson, Scorsone, Siler, Strong, White, Will.

Floor Amendment No. 1 to **HB 318** was adopted.

Representative Noe moved that **HB 318** be laid on the table.

On the roll call the vote was yeas 30-Adkins, Barrows, Blevins, Bruce, Casebier, Castleman, Cline, Curd, Cyrus, Donnermeyer, Gedling, Geveden, Gray, Hourigan, Jackson, A. Jones, T. Jones, Lefevers, Lyne, Mack, Mason, McBee, Meyer, Morris, Noe, Rapier, Scorsone, Siler, Stumbo, White. Nays 57-Ackerson, Adams, Allen, Altman, Ark, Arnold, Ballard, Blandford, Bronger, J. Brown, M. Brown, Burch, Callahan, L. Clark, P. Clark, Clarke, Crupper, Deskins, Farrow, Freibert, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Johnson, Kerr, Layman, Lear, LeMaster, Lile, Long, Lundergan, Maggard, McElroy, Moberly, Nett, Noland, O'Brien, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Riner, Robinson, Seum, Strong, Turner, Walker, Will, Worthington, Yates.

The motion that **HB 318** be laid on the table was rejected.

Representative Nett moved that **HB 318**, as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 19. (See March 4, 1988 roll call on **HB 318** - Appendix A.)

HB 318, as amended, was passed and the title agreed to.

HB 677 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HB 677** be passed.

On the roll call the vote was: Yeas 54, Nays 39. (See March 4, 1988 roll call on **HB 677** - Appendix A.)

HB 677 was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 677** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 650, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved the adoption of Committee Amendment No. 1 to **HB 650**. Agreed.

Representative Reinhardt moved that **HB 650**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 4, 1988 roll call on **HB 650** - Appendix A.)

HB 650, as amended, was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HB 650**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 81 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Reinhardt moved that **HJR 81** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 4, 1988 roll call on **HJR 81** - Appendix A.)

HJR 81 was passed and the title agreed to.

Representative Reinhardt moved that the vote by which **HJR 81** was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to apply the Clincher Motion to **HB 318**. Agreed.

Representative Nett moved that the vote by which **HB 318**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended for Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (continued)

The Clerk announced the following Bills have been posted for Committee consideration:

State Government: **HB 1021, SB 216.**

Business Organizations and Professions: **HB 955, HB 956.**

Judiciary-Criminal: **HB 967.**

Cities: **HB 840.**

Counties and Special Districts: **HB 771, HB 820, HB 835, HB 857, HB 902, HB 906, HB 935.**

Report of Committees

The Committee on Banking and Insurance reported **HB 551** with Committee Substitute, and **HB 769** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 551, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In actions involving fault of more than one party to the action, including third party defendants and persons who have been released under subsection (4) of this section, the court, unless otherwise agreed by all parties, shall instruct the jury to answer interrogatories or, if there is no jury, shall make findings indicating:

(a) The amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

(b) The percentage of the total fault of all the parties to each claim that is allocated to each claimant, defendant, third party defendant, and person who has been released from liability under subsection (4) of this section.

(2) In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each party at fault and the extent of the causal relation between the conduct and the damages claimed.

(3) The court shall determine the award of damages to each claimant in accordance with the findings, subject to any reduction under subsection (4) of this section, and shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault.

(4) A release, covenant not to sue, or similar agreement entered into by a claimant, and a person liable shall discharge that person from all liability for contribution, but it shall not be considered to discharge any other persons liable upon the same claim unless it so provides. However, the claim of the releasing person against other persons shall be reduced by the amount of the released persons equitable share of the obligation, determined in accordance with the provisions of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 2 and 3 of this Act, unless the context requires otherwise

(a) "Oppression" means conduct which is specifically intended by the defendant to subject the plaintiff to cruel and unjust hardship.

(b) "Fraud" means an intentional misrepresentation, deceit, or concealment of material fact known to the defendant and made with the intention of causing injury to the plaintiff.

(c) "Malice" means either conduct which is specifically intended by the defendant to cause tangible or intangible injury to the plaintiff or conduct that is carried out by the defendant both with a flagrant indifference to the rights of the plaintiff and with a subjective awareness that such conduct will result in human death or bodily harm.

(d) "Plaintiff" means any party claiming punitive damages.

(e) "Defendant" means any party against whom punitive damages are sought.

(f) "Punitive damages" includes exemplary damages and means damages, other than compensatory and nominal damages, awarded against a person to punish and to discourage him and others from similar conduct in the future.

(2) A plaintiff shall recover punitive damages only upon proving, by clear and convincing evidence, that the defendant from whom such damages are sought acted toward the plaintiff with oppression, fraud or malice.

(3) In no case shall punitive damages be assessed against a principal or employer for the act of an agent or employe unless such principal or employer authorized or ratified or should have anticipated the conduct in question.

(4) In no case shall punitive damages be awarded for breach of contract.

(5) This statute is applicable to all cases in which punitive damages are sought and supersedes any and all existing statutory or judicial law insofar as such law is inconsistent with the provisions of this statute.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In any civil action where claims for punitive damages are included, the jury or judge if jury trial has been waived, shall determine concurrently with all other issues presented, whether punitive damages may be assessed.

(2) If the trier of fact determines that punitive damages should be awarded, the court shall then assess the sum of punitive damages. In determining the amount of punitive damages to be assessed, the court should consider the following factors:

(a) The likelihood at the relevant time that serious harm would arise from the defendant's misconduct;

(b) The degree of the defendant's awareness of that likelihood;

(c) The profitability of the misconduct to the defendant;

(d) The duration of the misconduct and any concealment of it by the defendant;

(e) Any actions by the defendant to remedy the misconduct once it became known to the defendant;

(f) The financial condition of the defendant and the effect of an award of punitive damages on the defendant and others who are or may be affected by such award; and

(g) The total effect of other punishment imposed or likely to be imposed upon the defendant as a result of the misconduct, including punitive damage awards to persons similarly situated to the plaintiff and the severity of criminal penalties to which the defendant has been or may be subjected.

(3) Sections 2 and 3 of this Act are applicable to all cases in which punitive damages are sought.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to all actions for damages, whether in contract or tort, commenced after the effective date of this act.

(2) At the commencement of an action seeking to recover damages, it shall be the duty of the plaintiff or his attorney to notify, by certified mail, those parties believed by him to hold subrogation rights to any award received by the plaintiff as a result of the action. The notification shall state that a failure to assert subrogration rights by intervention, pursuant to Kentucky Civil Rule 24, will result in a loss of those rights with respect to any final award received by the plaintiff as a result of the action.

(3) The existence of a collateral source, except life insurance, the value of any premiums paid by or on behalf of the plaintiff for same, and known subrogation rights shall be an admissible fact in any civil trial.

(4) A certified list of the parties notified pursuant to subsection (2) of this section shall also be filed with the clerk of the court at the commencement of the action.

SECTION 5. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ TO FOLLOWS:

(1) For the purpose of this section, "structured settlement" shall mean an agreement, approved by the trial court, whereby a party found monetarily liable to another party liquidates that liability on an installment basis.

(2) In all civil actions commenced after the effective date of this Act wherein a portion of the award is for the loss of future wages, medical expenses or pain and suffering, the trial court shall mandate that such portion of the award be liquidated by a structured settlement if such portion meets or exceeds ten (10) times the average state annual wage. The structured settlement shall be subject to the approval of the court and shall provide for prior payment of all costs, all attorney's fees, and adequate security for future payment of the structured settlement.

(3) Any party may, upon motion with good cause shown, request the judgment be satisfied in a manner other than a structured settlement.

SECTION 6. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

An action for the taking, detaining or injuring personal property, including an action for specific recovery shall be commenced within two (2) years from the time the cause of action accrued.

Section 7. KRS 413.120 is amended to read as follows:

The following actions shall be commenced within five years after the cause of action accrued:

(1) An action upon a contract not in writing, express or implied.

(2) An action upon a liability created by statute, when no other time is fixed by the statute creating the liability.

(3) An action for a penalty or forfeiture when no time is fixed by the statute prescribing it.

(4) An action for trespass on real or personal property.

(5) An action for the profits of or damages for withholding real or personal property.

(6) [~~An action for the taking, detaining or injuring personal property, including an action for specific recovery.~~

~~(7)~~] An action for an injury to the rights of the plaintiff, not arising on contract and not otherwise enumerated.

(7)[~~(8)~~] An action upon a bill of exchange, check, draft or order, or any endorsement thereof, or upon a promissory note, placed upon the footing of a bill of exchange.

(8)[~~(9)~~] An action to enforce the liability of a steamboat or other vessel.

(9)[~~(10)~~] An action upon a merchant's account for goods sold and delivered, or any article charged in such store account.

(10)[~~(11)~~] An action upon an account concerning the trade of merchandise, between merchant and merchant or their agents.

(11)[~~(12)~~] An action for relief or damages on the ground of fraud or mistake.

(12)[~~(13)~~] An action to enforce the liability of bail.

(13)[~~(14)~~] An action for personal injuries suffered by any person against the builder of a home or other

improvements. This cause of action shall be deemed to accrue at the time of original occupancy of the improvements which the builder caused to be erected.

SECTION 8. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation shall set forth:

(a) A corporate name for the corporation that satisfies the requirements of this chapter;

(b) The number of shares the corporation is authorized to issue;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(d) The mailing address of the corporation's principal office; and

(e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:

(a) The names and mailing addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized;

2. Managing the business and regulating the affairs of the corporations;

3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

4. A par value for authorized shares or classes of shares; and

5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; and

(c) Any provision that under this Act is required or permitted to be set forth in the bylaws; or

(d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director;

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;

2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;

3. For any vote for or assent to an unlawful distribution to shareholders as prohibited by this chapter;

4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to Section 9 of this Act.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this Act.

SECTION 9. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) A director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on a director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with subsection (2)(d) of Section 8 of this Act, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation and its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when this section becomes effective.

SECTION 10. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A conflict of interest transaction shall be a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

(b) The material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction; or

(c) The transaction was fair to the corporation.

(2) For purposes of this section, a director of the corporation shall have an indirect interest in a transaction if:

(a) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(b) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

(3) For purposes of subsection (1)(a) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum shall be present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction shall not affect the validity of any action taken under subsection (1)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(4) For purposes of subsection (1)(b) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection (2)(a) of this section, may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection (1)(b) of this section. The vote of those shares, however, shall be counted in determining whether the transaction is approved under other sections of this Act. A majority of the shares that are entitled to be counted in a vote on the transaction under this subsection shall constitute a quorum for the purpose of taking action under this section.

SECTION 11. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) An officer with discretionary authority shall discharge his duties under that authority:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) An officer shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties an officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the officer honestly believes to be reliable and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer honestly believes are within the person's professional or expert competence.

(4) An officer shall not be considered to be acting in good faith if he has knowledge concerning the matter d by subsection (3) of this section unwarranted.

(5) Any action taken as an officer, or any failure to take any action as an officer, shall not be the basis for monetary damages or injunctive relief unless:

(a) The officer has breached or failed to perform his duties in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation or its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach of failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any officer for any act or omission occurring prior to the date when this section becomes effective.

SECTION 12. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The articles of incorporation of a non-profit corporation subject to the provisions of KRS 273.161 to 273.387 may set forth:

(1) A provision eliminating or limiting the personal liability of a director to the corporation for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:

(a) For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation;

(b) For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law; or

(c) For any transaction from which the director derived an improper personal benefit.

(2) No such provision shall eliminate or limit the liability of any director for any act or omissions occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to Section 13 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A director of a non-profit corporation subject to the provisions of KRS 273.161 to 273.387 shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) Such director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporations, or into a particular actions to be taken or decision to be made.

(3) In discharging his duties such director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director of a non-profit corporation shall not be considered to act in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on such director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with the provisions of Section 12 of this Act, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5) (a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of the damages suffered.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when this section becomes effective.

SECTION 14. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A conflict of interest transaction is a transaction with the non-profit corporation in which a director of such corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction; or

(b) The transaction was fair to the corporation.

(2) For purposes of this section, a director of a non-profit corporation shall be considered to have an indirect interest in a transaction if:

(a) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(b) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

SECTION 15. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) An officer of a non-profit corporation subject to the provisions of KRS 273.161 to 273.387, with discretionary authority, shall discharge his duties under that authority:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) Such officer shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties such officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employes of the corporation whom the officer honestly believes to be reliable and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer honestly believes are within the person's professional or expert competence.

(4) An officer shall not be considered to act in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) Any action taken as an officer, or any failure to take any action as an officer, shall not be the basis for monetary damages or injunctive relief unless:

(a) The officer has breached or failed to perform his duties in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsections (5) (a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of the damages suffered.

(7) Nothing in this section shall eliminate or limit the liability of any officer for any act or omission occurring prior to the date when this section becomes effective.

SECTION 16. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) No person who serves without compensation, other than reimbursement for actual expenses, as an officer, director, trustee or volunteer for any nonprofit organization as defined under section 501(c) of the Internal Revenue Code of 1987 shall be personally liable for any civil damages as a result of any acts or omissions relating solely to the performance of his duties as an officer, director, trustee or volunteer, unless the conduct of the person falls substantially below the standards generally practiced and accepted in like circumstances by similar persons performing the same or similar duties, and unless it is shown that the person did an act or omitted the doing of an act which the person was under a recognized duty to another to do, knowing or having reason to know that the act or omission created a substantial risk of actual harm to the person or property of another. It shall be insufficient to impose liability to establish only that the conduct of the person fell below ordinary standards of care.

(2) No person who serves without compensation other than reimbursement for actual expenses, as an officer, director, trustee or volunteer for any non profit organization shall be personally liable for any civil damages resulting from any negligent act or omission of an employe or other officer, director, trustee or volunteer of the non profit corporation unless with prior knowledge of the act or omission he approves or otherwise actively participates in that act or omission or after the act or omission with full knowledge of that action or omission, ratifies it.

(3) Nothing in this act shall be construed to limit the liability of the non profit organization itself for damages or injury resulting from any negligent act or omission.

(4) Nothing in this Act shall be construed to affect any civil action brought by any nonprofit organization against any employe of any such organization.

(5) Nothing in this Act shall create nor shall be construed as creating a new cause of action or substantial legal right against a non profit organization or its officer, director, trustee, volunteer or employe.

SECTION 17. KRS CHAPTER 65A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 17 to 24 of this Act, unless the context otherwise requires:

(1) "Action in tort" means any claim for money damages based upon negligence, medical malpractice, intentional tort, nuisance, products liability and strict liability, and also includes any wrongful death or survival-type action.

(2) "Employe" means any elected or appointed officer of a local government, or any paid or unpaid employe or agent of a local government, provided that no independent contractor nor employe nor agent of an independent contractor shall be deemed to be an employe of a local government.

(3) "Local government" means any city incorporated under the law of this Commonwealth, the offices and agencies thereof, any county government or fiscal court, any special district or special taxing district created or controlled by a local government.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Every action in tort against any local government in this Commonwealth for death, personal injury or property damages proximately caused by:

(1) Any defect or hazardous condition in public lands, buildings or other public property, including personalty;

(2) Any act or omission of any employe, while acting within the scope of his employment or duties; or

(3) Any act or omission of a person other than an employe for which the local government is or may be liable, shall be subject to the provisions of Sections 17 to 24 of this Act. Except as otherwise specifically provided in Sections 17 to 24 of this Act, all enacted and case-made law, substantive or procedural, concerning actions in tort against local governments shall continue in force. No provision of Sections 17 to 24 of this Act shall in any way be construed to expand the existing common law concerning municipal tort liability as of the effective date of this Act nor eliminate or abrogate the defense of governmental immunity for county governments.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

The amount of damages recoverable against a local government for death, personal injury or property damages arising out of a single accident or occurrence, or sequence of accidents or occurrences, shall not exceed the total damages suffered by plaintiff, reduced by the percentage of fault including contributory fault, attributed by the trier of fact to other parties, if any.

SECTION 20. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Notwithstanding Section 18 of this Act, a local government shall not be liable for injuries or losses resulting from:

(1) Any claim by an employe of the local government which is covered by the Kentucky worker's compensation law;

(2) Any claim in connection with the assessment or collection of taxes;

(3) Any claim arising from the exercise of judicial, quasi-judicial, legislative or quasi-legislative authority or others, exercise of judgment or discretion vested in the local government, which shall include by example, but not be limited to:

(a) The adoption or failure to adopt any ordinance, resolution, order, regulation, or rule;

(b) The failure to enforce any law;

(c) The issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization;

(d) The exercise of discretion when in the face of competing demands, the local government determines whether and how to utilize or apply existing resources; or

(e) Failure to make an inspection.

Nothing contained in this subsection shall be construed to exempt a local government from liability for negligence arising out of acts or omissions of its employes in carrying out their ministerial duties.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) Upon motion of a local government against which final judgment has been rendered for a claim within the scope of Sections 17 to 24 of this Act, the court in accordance with subsection (2) of this section, may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over a period of time not exceeding ten (10) years. Any periodic payment, upon becoming due under the terms of the judgment, shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest accruing from the date final judgment is entered, at the interest rate as specified in KRS 360.040. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments, but the total amount of damages awarded by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(2) A court may order periodic payment only upon finding that:

(a) Payment of the judgment is not totally covered by insurance; and

(b) Funds for the current budget year and other funds of the local government which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance.

SECTION 22. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) A local government shall provide for the defense of any employe in any action in tort arising out of an act or omission occurring within the scope of his employment of which it has been given notice pursuant to subsection (2) of this section. The local government shall pay any judgment based thereon or any compromise or settlement of the action except as provided in subsection (3) of this section and except that a local government's responsibility under this section to indemnify an employe shall be subject to the limitations contained in Section 19 of this Act.

(2) Upon receiving service of a summons and complaint in any action in tort brought against him, an employe shall, within ten (10) days of receipt of service, give written notice of such action in tort to the executive authority of the local government.

(3) A local government may refuse to pay a judgment or settlement in any action against an employe, or if a local government pays any claim or judgment against any employe pursuant to subsection (1) of this section, it may recover from such employe the amount of such payment and the costs to defend if:

(a) The employe acted or failed to act because of fraud, malice or corruption;

(b) The action was outside the actual or apparent scope of his employment;

(c) The employe willfully failed or refused to assist the defense of the cause of action, including the failure to give notice to the executive authority of the local government pursuant to subsection (2) of this section; or

(d) The employe compromised or settled the claim without the approval of the governing body of the local governmental.

SECTION 23. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Sections 17 to 23 of this Act shall apply to all actions in tort in which money damages have not been adjudged as of the effective date of this Act.

Section 24. KRS 311.377 is amended to read as follows:

(1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of such application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employe of or who furnishes *information,* professional counsel or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, *organized medical staff,* medical society, or association affiliated with the American medical association, American podiatry association, American dental association, American osteopathic association or the American hospital association, or a medical care foundation affiliated with such a medical society or association, or governmental or quasi-governmental agency *when such entity is performing the designated function of review of credentials or retrospective* [~~designated to~~] review and *evaluation of the competency of professional acts or conduct* [~~evaluate the health care acts~~] of other health care personnel. This subsection shall have equal application to, and the waiver be effective for, those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any such health services organization.

(2) *At all times in performing a designated professional review function,* the proceedings, records, opinions, conclusions and recommendations of any committee, board, commission, *medical staff,* professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action in any court or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city, *except as specifically provided with regard to the board in KRS 311.605(2).* This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.

(3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document or record which is subject to discovery independently of the proceedings of the [~~committee, board, commission, professional standards review organization or other~~] entity to which subsection (1) of this section refers.

(4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any *entity* [~~committee, board, commission, professional standards review organization~~] before which such evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document or record described in subsection (3) of this section or as to any information within his own knowledge except as provided in subsection (5) of this section.

(5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of such proceeding.

(6) In any action in which the denial, *termination or restriction* of staff *membership or* privileges by any health care *facility* [~~entity~~] shall be in issue, agents, employees or other representatives of a health care entity may with the consent of such health care entity testify concerning any evidence presented in proceedings related to the *facility's* [~~entity's~~] denial of such staff *membership of* privileges.

(7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any [~~committee, board, commission, professional standards review organization, or other~~] entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of *such* [~~any committee, board, commission, professional standards review organization, or other~~] entity.

(8) In addition to the foregoing, the immunity provisions of the federal Health Care Quality Improvement Act of 1986, P.L. 99-660, shall be effective arising under state laws as of the effective date of this Act.

Section 25. KRS 311.605 is amended to read as follows:

(1) Every county board of health shall, at such times as are fixed by the board, report to the board the name and address of each person believed to be engaged in the practice of medicine or osteopathy, as defined by KRS 311.550, within their respective jurisdictions. The county boards of health shall also report to the board and to the county and Commonwealth's attorneys of their respective counties all violations of KRS 311.550 to 311.620 and shall assist in the enforcement thereof.

(2) For the purpose of enforcing the provisions of KRS 311.550 to 311.620, agents of the board shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents or other evidence. The term "premises" as used in this subsection shall include physician offices, pharmacies and all health care facilities licensed or regulated by the Commonwealth. Agents of the board may only require pharmacies to produce prescription records and health care facilities to produce records of patients or physician peer reviews. *Such inspection or seizure of peer review records shall not affect the confidential nature of those records as provided in KRS 311.377, and the board shall maintain such peer review records so as to protect the confidentiality thereof.*

(3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of KRS 311.550 to 311.620, regardless of whether the defendant has been convicted for violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 26. KRS 274.015 is amended to read as follows:

(1) One or more individuals, each of whom is licensed to render the same professional service or who are licensed to render related professional services such that applicable licensing laws and regulations would not prohibit the practice of such multiple professional services through a single business partnership, may incorporate and form a professional service corporation by filing articles of incorporation in the office of the secretary of state. Such articles of incorporation shall meet the requirements of KRS Chapter 271A, and in addition to the information required by *Section 8 of this Act* [~~KRS 271A.270~~], such articles shall contain the following:

(a) The designation of the profession or professions to be practiced through the professional service corporation.

(b) The names and residence addresses of all the original shareholders of the professional service corporation.

(c) A statement by the incorporator or incorporators that each of the incorporators, shareholders, not less than one half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person within the meaning of this chapter.

(2) Any professional service corporation formed under the provisions of this chapter shall, except as this chapter may otherwise provide, have the same powers, authority, duties and liability as corporations formed under KRS Chapter 271A.

Section 27. The following KRS sections are repealed:

271A.205 Director conflicts of interest.

271A.270 Articles of incorporation.

The Committee Substitute to **HB 551** is as follows:

HB 551, AN ACT relating to civil actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In all tort actions, including products liability actions, involving fault of more than one party to the action, including third party defendants and persons who have been released under subsection (4) of this section, the court, unless otherwise agreed by all parties, shall instruct the jury to answer interrogatories or, if there is no jury, shall make findings indicating:

(a) The amount of damages each claimant would be entitled to recover if contributory fault is disregarded; and

(b) The percentage of the total fault of all the parties to each claim that is allocated to each claimant, defendant, third party defendant, and person who has been released from liability under subsection (4) of this section.

(2) In determining the percentages of fault, the trier of fact shall consider both the nature of the conduct of each party at fault and the extent of the causal relation between the conduct and the damages claimed.

(3) The court shall determine the award of damages to each claimant in accordance with the findings, subject to any reduction under subsection (4) of this section, and shall determine and state in the judgment each party's equitable share of the obligation to each claimant in accordance with the respective percentages of fault.

(4) A release, covenant not to sue, or similar agreement entered into by a claimant, and a person liable shall discharge that person from all liability for contribution, but it shall not be considered to discharge any other persons liable upon the same claim unless it so provides. However, the claim of the releasing person against other persons shall be reduced by the amount of the released persons equitable share of the obligation, determined in accordance with the provisions of this section.

SECTION 2. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 2 and 3 of this Act, unless the context requires otherwise:

(a) "Oppression" means conduct which is specifically intended by the defendant to subject the plaintiff to cruel and unjust hardship.

(b) "Fraud" means an intentional misrepresentation, deceit, or concealment of material fact known to the defendant and made with the intention of causing injury to the plaintiff.

(c) "Malice" means either conduct which is specifically intended by the defendant to cause tangible or intangible injury to the plaintiff or conduct that is carried out by the defendant both with a flagrant indifference to the rights of the plaintiff and with a subjective awareness that such conduct will result in human death or bodily harm.

(d) "Plaintiff" means any party claiming punitive damages.

(e) "Defendant" means any party against whom punitive damages are sought.

(f) "Punitive damages" includes exemplary damages and means damages, other than compensatory and nominal damages, awarded against a person to punish and to discourage him and others from similar conduct in the future.

(2) A plaintiff shall recover punitive damages only upon proving, by clear and convincing evidence, that the defendant from whom such damages are sought acted toward the plaintiff with oppression, fraud or malice.

(3) In no case shall punitive damages be assessed against a principal or employer for the act of an agent or employe unless such principal or employer authorized or ratified or should have anticipated the conduct in question.

(4) In no case shall punitive damages be awarded for breach of contract.

(5) This statute is applicable to all cases in which punitive damages are sought and supersedes any and all existing statutory or judicial law insofar as such law is inconsistent with the provisions of this statute.

SECTION 3. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) In any civil action where claims for punitive damages are included, the jury or judge if jury trial has been waived, shall determine concurrently with all other issues presented, whether punitive damages may be assessed.

(2) If the trier of fact determines that punitive damages should be awarded, the trier of fact shall then assess the sum of punitive damages. In determining the amount of punitive damages to be assessed, the trier of fact should consider the following factors:

(a) The likelihood at the relevant time that serious harm would arise from the defendant's misconduct;

(b) The degree of the defendant's awareness of that likelihood;

(c) The profitability of the misconduct to the defendant;

(d) The duration of the misconduct and any concealment of it by the defendant; and

(e) Any actions by the defendant to remedy the misconduct once it became known to the defendant.

(3) Sections 2 and 3 of this Act are applicable to all cases in which punitive damages are sought.

SECTION 4. A NEW SECTION OF KRS CHAPTER 411 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to all actions for damages, whether in contract or tort, commenced after the effective date of this act.

(2) At the commencement of an action seeking to recover damages, it shall be the duty of the plaintiff or his attorney to notify, by certified mail, those parties believed by him to hold subrogation rights to any award received by the plaintiff as a result of the action. The notification shall state that a failure to assert subrogration rights by intervention, pursuant to Kentucky Civil Rule 24, will result in a loss of those rights with respect to any final award received by the plaintiff as a result of the action.

(3) Collateral source payments, except life insurance, the value of any premiums paid by or on behalf of the plaintiff for same, and known subrogation rights shall be an admissible fact in any civil trial.

(4) A certified list of the parties notified pursuant to subsection (2) of this section shall also be filed with the clerk of the court at the commencement of the action.

SECTION 5. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

An action for the taking, detaining or injuring personal property, including an action for specific recovery shall be commenced within two (2) years from the time the cause of action accrued.

Section 6. KRS 413.120 is amended to read as follows:

The following actions shall be commenced within five years after the cause of action accrued:

(1) An action upon a contract not in writing, express or implied.

(2) An action upon a liability created by statute, when no other time is fixed by the statute creating the liability.

(3) An action for a penalty or forfeiture when no time is fixed by the statute prescribing it.

(4) An action for trespass on real or personal property.

(5) An action for the profits of or damages for withholding real or personal property.

(6) [~~An action for the taking, detaining or injuring personal property, including an action for specific recovery.~~

~~(7)~~] An action for an injury to the rights of the plaintiff, not arising on contract and not otherwise enumerated.

(7)[~~(8)~~] An action upon a bill of exchange, check, draft or order, or any endorsement thereof, or upon a promissory note, placed upon the footing of a bill of exchange.

(8)[~~(9)~~] An action to enforce the liability of a steamboat or other vessel.

(9)[~~(10)~~] An action upon a merchant's account for goods sold and delivered, or any article charged in such store account.

(10)[~~(11)~~] An action upon an account concerning the trade of merchandise, between merchant and merchant or their agents.

(11)[~~(12)~~] An action for relief or damages on the ground of fraud or mistake.

(12)[~~(13)~~] An action to enforce the liability of bail.

(13)[~~(14)~~] An action for personal injuries suffered by any person against the builder of a home or other improvements. This cause of action shall be deemed to accrue at the time of original occupancy of the improvements which the builder caused to be erected.

SECTION 7. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) The articles of incorporation shall set forth:

(a) A corporate name for the corporation that satisfies the requirements of this chapter;

(b) The number of shares the corporation is authorized to issue;

(c) The street address of the corporation's initial registered office and the name of its initial registered agent at that office;

(d) The mailing address of the corporation's principal office; and

(e) The name and mailing address of each incorporator.

(2) The articles of incorporation may set forth:

(a) The names and mailing addresses of the individuals who are to serve as the initial directors;

(b) Provisions not inconsistent with law regarding:

1. The purpose or purposes for which the corporation is organized;

2. Managing the business and regulating the affairs of the corporations;

3. Defining, limiting, and regulating the powers of the corporation, its board of directors, and shareholders;

4. A par value for authorized shares or classes of shares; and

5. The imposition of personal liability on shareholders for the debts of the corporation to a specified extent and upon specified conditions; and

(c) Any provision that under this Act is required or permitted to be set forth in the bylaws; or

(d) A provision eliminating or limiting the personal liability of a director to the corporation or its shareholders for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director;

1. For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation or its shareholders;

2. For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law;

3. For any vote for or assent to an unlawful distribution to shareholders as prohibited by this chapter;

4. For any transaction from which the director derived an improper personal benefit.

No such provision shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to Section 8 of this Act.

(3) The articles of incorporation need not set forth any of the corporate powers enumerated in this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) A director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties a director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on a director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with subsection (2)(d) of Section 7 of this Act, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation and its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when this section becomes effective.

SECTION 9. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) A conflict of interest transaction shall be a transaction with the corporation in which a director of the corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction;

(b) The material facts of the transaction and the director's interest were disclosed or known to the shareholders entitled to vote and they authorized, approved, or ratified the transaction; or

(c) The transaction was fair to the corporation.

(2) For purposes of this section, a director of the corporation shall have an indirect interest in a transaction if:

(a) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(b) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

(3) For purposes of subsection (1)(a) of this section, a conflict of interest transaction shall be considered authorized, approved, or ratified if it receives the affirmative vote of a majority of the directors on the board of directors (or on the committee) who have no direct or indirect interest in the transaction, but a transaction shall not be authorized, approved, or ratified under this section by a single director. If a majority of the directors who have no direct or indirect interest in the transaction vote to authorize, approve, or ratify the transaction, a quorum shall be present for the purpose of taking action under this section. The presence of, or a vote cast by, a director with a direct or indirect interest in the transaction shall not affect the validity of any action taken under subsection (1)(a) of this section if the transaction is otherwise authorized, approved, or ratified as provided in that subsection.

(4) For purposes of subsection (1)(b) of this section, a conflict of interest transaction shall be considered

authorized, approved, or ratified if it receives the vote of a majority of the shares entitled to be counted under this subsection. Shares owned by or voted under the control of a director who has a direct or indirect interest in the transaction, and shares owned by or voted under the control of an entity described in subsection (2)(a) of this section, may not be counted in a vote of shareholders to determine whether to authorize, approve, or ratify a conflict of interest transaction under subsection (1)(b) of this section. The vote of those shares, however, shall be counted in determining whether the transaction is approved under other sections of this Act. A majority of the shares that are entitled to be counted in a vote on the transaction under this subsection shall constitute a quorum for the purpose of taking action under this section.

SECTION 10. A NEW SECTION OF KRS CHAPTER 271A IS CREATED TO READ AS FOLLOWS:

(1) An officer with discretionary authority shall discharge his duties under that authority:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) An officer shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties an officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the corporation whom the officer honestly believes to be reliable and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer honestly believes are within the person's professional or expert competence.

(4) An officer shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) Any action taken as an officer, or any failure to take any action as an officer, shall not be the basis for monetary damages or injunctive relief unless:

(a) The officer has breached or failed to perform his duties in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for the best interests of the corporation or its shareholders.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5)(a) and (b) of this section, and the burden of proving that the breach of failure to perform was the legal cause of damages suffered by the corporation.

(7) Nothing in this section shall eliminate or limit the liability of any officer for any act or omission occurring prior to the date when this section becomes effective.

SECTION 11. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

The articles of incorporation of a non-profit corporation subject to the provisions of KRS 273.161 to 273.387 may set forth:

(1) A provision eliminating or limiting the personal liability of a director to the corporation for monetary damages for breach of his duties as a director, provided that such provision shall not eliminate or limit the liability of a director:

(a) For any transaction in which the director's personal financial interest is in conflict with the financial interests of the corporation;

(b) For acts or omissions not in good faith or which involve intentional misconduct or are known to the director to be a violation of law; or

(c) For any transaction from which the director derived an improper personal benefit.

(2) No such provision shall eliminate or limit the liability of any director for any act or omissions occurring prior to the date when such provision becomes effective. In no case shall this subsection or any such provision be construed to expand the liability of any director as determined pursuant to Section 12 of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A director of a non-profit corporation subject to the provisions of KRS 273.161 to 273.387 shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) Such director shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporations, or into a particular action to be taken or decision to be made.

(3) In discharging his duties such director shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employes of the corporation whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(4) A director of a non-profit corporation shall not be considered to act in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) In addition to any other limitation on such director's liability for monetary damages contained in any provision of the corporation's articles of incorporation adopted in accordance with the provisions of Section 11 of this Act, any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (5) (a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of the damages suffered.

(7) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the date when this section becomes effective.

SECTION 13. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) A conflict of interest transaction is a transaction with the non-profit corporation in which a director of such corporation has a direct or indirect interest. A conflict of interest transaction shall not be voidable by the corporation solely because of the director's interest in the transaction if any one of the following is true:

(a) The material facts of the transaction and the director's interest were disclosed or known to the board of directors or a committee of the board of directors and the board of directors or committee authorized, approved, or ratified the transaction; or

(b) The transaction was fair to the corporation.

(2) For purposes of this section, a director of a non-profit corporation shall be considered to have an indirect interest in a transaction if:

(a) Another entity in which he has a material financial interest or in which he is a general partner is a party to the transaction; or

(b) Another entity of which he is a director, officer, or trustee is a party to the transaction and the transaction is or should be considered by the board of directors of the corporation.

SECTION 14. A NEW SECTION OF KRS CHAPTER 273 IS CREATED TO READ AS FOLLOWS:

(1) An officer of a non-profit corporation subject to the provisions of KRS 273.161 to 273.387, with discretionary authority, shall discharge his duties under that authority:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interests of the corporation.

(2) Such officer shall be considered to discharge his duties on an informed basis if he makes, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, inquiry into the business and affairs of the corporation, or into a particular action to be taken or decision to be made.

(3) In discharging his duties such officer shall be entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One or more officers or employes of the corporation whom the officer honestly believes to be reliable and competent in the matters presented; or

(b) Legal counsel, public accountants, or other persons as to matters the officer honestly believes are within the person's profnal or expert competence.

(4) An officer shall not be considered to act in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (3) of this section unwarranted.

(5) Any action taken as an officer, or any failure to take any action as an officer, shall not be the basis for monetary damages or injunctive relief unless:

(a) The officer has breached or failed to perform his duties in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful

misconduct or wanton or reckless disregard for human rights, safety or property.

(6) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsections (5) (a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of the damages suffered.

(7) Nothing in this section shall eliminate or limit the liability of any officer for any act or omission occurring prior to the date when this section becomes effective.

SECTION 15. KRS CHAPTER 65A IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

As used in Sections 15 to 22 of this Act, unless the context otherwise requires:

(1) "Action in tort" means any claim for money damages based upon negligence, medical malpractice, intentional tort, nuisance, products liability and strict liability, and also includes any wrongful death or survival-type action.

(2) "Employe" means any elected or appointed officer of a local government, or any paid or unpaid employe or agent of a local government, provided that no independent contractor nor employe nor agent of an independent contractor shall be deemed to be an employe of a local government.

(3) "Local government" means any city incorporated under the law of this Commonwealth, the offices and agencies thereof, any county government or fiscal court, any special district or special taxing district created or controlled by a local government.

SECTION 16. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Every action in tort against any local government in this Commonwealth for death, personal injury or property damages proximately caused by:

(1) Any defect or hazardous condition in public lands, buildings or other public property, including personalty;

(2) Any act or omission of any employe, while acting within the scope of his employment or duties; or

(3) Any act or omission of a person other than an employe for which the local government is or may be liable, shall be subject to the provisions of Sections 15 to 22 of this Act. Except as otherwise specifically provided in Sections 15 to 22 of this Act, all enacted and case-made law, substantive or procedural, concerning actions in tort against local governments shall continue in force. No provision of Sections 15 to 22 of this Act shall in any way be construed to expand the existing common law concerning municipal tort liability as of the effective date of this Act nor eliminate or abrogate the defense of governmental immunity for county governments.

SECTION 17. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

The amount of damages recoverable against a local government for death, personal injury or property damages arising out of a single accident or occurrence, or sequence of accidents or occurrences, shall not exceed the total damages suffered by plaintiff, reduced by the percentage of fault including contributory fault, attributed by the trier of fact to other parties, if any.

SECTION 18. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Notwithstanding Section 16 of this Act, a local government shall not be liable for injuries or losses resulting from:

(1) Any claim by an employe of the local government which is covered by the Kentucky worker's compensation law;

(2) Any claim in connection with the assessment or collection of taxes;

(3) Any claim arising from the exercise of judicial, quasi-judicial, legislative or quasi-legislative authority or others, exercise of judgment or discretion vested in the local government, which shall include by example, but not be limited to:

(a) The adoption or failure to adopt any ordinance, resolution, order, regulation, or rule;

(b) The failure to enforce any law;

(c) The issuance, denial, suspension, revocation of, or failure or refusal to issue, deny, suspend or revoke any permit, license, certificate, approval, order or similar authorization;

(d) The exercise of discretion when in the face of competing demands, the local government determines whether and how to utilize or apply existing resources; or

(e) Failure to make an inspection.

Nothing contained in this subsection shall be construed to exempt a local government from liability for negligence arising out of acts or omissions of its employes in carrying out their ministerial duties.

SECTION 19. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) Upon motion of a local government against which final judgment has been rendered for a claim within the scope of Sections 15 to 22 of this Act, the court in accordance with subsection (2) of this section, may include in such judgment a requirement that the judgment be paid in whole or in part by periodic payments. Periodic payments may be ordered paid over a period of time not exceeding ten (10) years. Any periodic payment, upon becoming due under the terms of the judgment, shall constitute a separate judgment. Any judgment ordering any such payments shall specify the total amount awarded, the amount of each payment, the interval between payments and the number of payments to be paid under the judgment. Judgments paid pursuant to this section shall bear interest accruing from the date final judgment is entered, at the interest rate as specified in KRS 360.040. For good cause shown, the court may modify such judgment with respect to the amount of such payments and the number of payments, but the total amount of damages awarded by such judgment shall not be subject to modification in any event and periodic payments shall not be ordered paid over a period in excess of ten (10) years.

(2) A court may order periodic payment only upon finding that:

(a) Payment of the judgment is not totally covered by insurance; and

(b) Funds for the current budget year and other funds of the local government which lawfully may be utilized to pay judgments are insufficient to finance both the adopted budget of expenditures for the year and the payment of that portion of the judgment not covered by insurance.

SECTION 20. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

(1) A local government shall provide for the defense of any employe in any action in tort arising out of an act or omission occurring within the scope of his employment of which it has been given notice pursuant to subsection (2) of this section. The local government shall pay any judgment based thereon or any compromise or settlement of the action except as provided in subsection (3) of this section and except that a local government's responsibility under this section to indemnify an employe shall be subject to the limitations contained in Section 17 of this Act.

(2) Upon receiving service of a summons and complaint in any action in tort brought against him, an employe shall, within ten (10) days of receipt of service, give written notice of such action in tort to the executive authority of the local government.

(3) A local government may refuse to pay a judgment or settlement in any action against an employe, or if a local government pays any claim or judgment against any employe pursuant to subsection (1) of this

section, it may recover from such employe the amount of such payment and the costs to defend if:

(a) The employe acted or failed to act because of fraud, malice or corruption;

(b) The action was outside the actual or apparent scope of his employment;

(c) The employe willfully failed or refused to assist the defense of the cause of action, including the failure to give notice to the executive authority of the local government pursuant to subsection (2) of this section; or

(d) The employe compromised or settled the claim without the approval of the governing body of the local government.

SECTION 21. A NEW SECTION OF KRS CHAPTER 65A IS CREATED TO READ AS FOLLOWS:

Sections 15 to 21 of this Act shall apply to all actions in tort in which money damages have not been adjudged as of the effective date of this Act.

Section 22. KRS 311.377 is amended to read as follows:

(1) Any person who applies for, or is granted staff privileges after June 17, 1978, by any health services organization subject to licensing under the certificate of need and licensure provisions of KRS Chapter 216B, shall be deemed to have waived as a condition of such application or grant, any claim for damages for any good faith action taken by any person who is a member, participant in or employe of or who furnishes *information,* professional counsel or services to any committee, board, commission, or other entity which is duly constituted by any licensed hospital, *organized medical staff,* medical society, or association affiliated with the American medical association, American podiatry association, American dental association, American osteopathic association or the American hospital association, or a medical care foundation affiliated with such a medical society or association, or governmental or quasi-governmental agency *when such entity is performing the designated function of review of credentials or retrospective* [~~designated to~~] review and *evaluation of the competency of professional acts or conduct* [~~evaluate the health care acts~~] of other health care personnel. This subsection shall have equal application to, and the waiver be effective for. those persons who, subsequent to June 17, 1978, continue to exercise staff privileges previously granted by any such health services organization.

(2) *At all times in performing a designated professional review function,* the proceedings, records, opinions, conclusions and recommendations of any committee, board, commission, *medical staff,* professional standards review organization, or other entity, as referred to in subsection (1) of this section shall be confidential and privileged and shall not be subject to discovery, subpoena, or introduction into evidence, in any civil action in any court or in any administrative proceeding before any board, body, or committee, whether federal, state, county, or city, *except as specifically provided with regard to the board in KRS 311.605(2).* This subsection shall not apply to any proceedings or matters governed exclusively by federal law or federal regulation.

(3) Nothing in subsection (2) of this section shall be construed to restrict or limit the right to discover or use in any civil action or other administrative proceeding any evidence, document or record which is subject to discovery independently of the proceedings of the [~~committee, board, commission, professional standards review organization or other~~] entity to which subsection (1) of this section refers.

(4) No person who presents or offers evidence in proceedings described in subsection (2) of this section or who is a member of any *entity* [~~committee, board, commission, professional standards review organization~~] before which such evidence is presented or offered may refuse to testify in discovery or upon a trial of any civil action as to any evidence, document or record described in subsection (3) of this section or as to any information within his own knowledge except as provided in subsection (5) of this section.

(5) No person shall be permitted or compelled to testify concerning his testimony or the testimony of others except that of a defendant given in any proceeding referred to in subsection (2) of this section, or as to any of his opinions formed as a result of such proceeding.

(6) In any action in which the denial, *termination or restriction* of staff *membership or* privileges by any health care *facility* [~~entity~~] shall be in issue, agents, employees or other representatives of a health care entity may with the consent of such health care entity testify concerning any evidence presented in proceedings related to the *facility's* [~~entity's~~] denial of such staff *membership of* privileges.

(7) Nothing in this section shall be construed to restrict or prevent the presentation of testimony, records, findings, recommendations, evaluations, opinions, or other actions of any [~~committee, board, commission, professional standards review organization, or other~~] entity described in subsection (1) of this section, in any statutory or administrative proceeding related to the functions or duties of *such* [~~any committee, board, commission, professional standards review organization, or other~~] entity.

(8) In addition to the foregoing, the immunity provisions of the federal Health Care Quality Improvement Act of 1986, P.L. 99-660, shall be effective arising under state laws as of the effective date of this Act.

Section 23. KRS 311.605 is amended to read as follows:

(1) Every county board of health shall, at such times as are fixed by the board, report to the board the name and address of each person believed to be engaged in the practice of medicine or osteopathy, as defined by KRS 311.550, within their respective jurisdictions. The county boards of health shall also report to the board and to the county and Commonwealth's attorneys of their respective counties all violations of KRS 311.550 to 311.620 and shall assist in the enforcement thereof.

(2) For the purpose of enforcing the provisions of KRS 311.550 to 311.620, agents of the board shall have the power and authority to administer oaths, to enter upon premises at all times for the purpose of making inspections, to seize evidence, to interrogate all persons, and to require the production of books, papers, documents or other evidence. The term "premises" as used in this subsection shall include physician offices, pharmacies and all health care facilities licensed or regulated by the Commonwealth. Agents of the board may only require pharmacies to produce prescription records and health care facilities to produce records of patients or physician peer reviews. *Such inspection or seizure of peer review records shall not affect the confidential nature of those records as provided in KRS 311.377, and the board shall maintain such peer review records so as to protect the confidentiality thereof.*

(3) The board may institute, in its own name, proceedings to temporarily or permanently restrain and enjoin violations of KRS 311.550 to 311.620, regardless of whether the defendant has been convicted for violation of the penal provisions thereof, and shall not be required to pay any costs or filing fees or furnish any bond in connection therewith. Violation of injunctions and restraining orders shall be punished as a contempt without the intervention of a jury.

Section 24. KRS 274.015 is amended to read as follows:

(1) One or more individuals, each of whom is licensed to render the same professional service or who are licensed to render related professional services such that applicable licensing laws and regulations would not prohibit the practice of such multiple professional services through a single business partnership, may incorporate and form a professional service corporation by filing articles of incorporation in the office of the secretary of state. Such articles of incorporation shall meet the requirements of KRS Chapter 271A, and in addition to the information required by *Section 7 of this Act* [~~KRS 271A.270~~], such articles shall contain the following:

(a) The designation of the profession or professions to be practiced through the professional service corporation.

(b) The names and residence addresses of all the original shareholders of the professional service corporation.

(c) A statement by the incorporator or incorporators that each of the incorporators, shareholders, not less than one half (1/2) of the directors, and each of the officers other than secretary and treasurer is a qualified person within the meaning of this chapter.

(2) Any professional service corporation formed under the provisions of this chapter shall, except as this chapter may otherwise provide, have the same powers, authority, duties and liability as corporations formed under KRS Chapter 271A.

SECTION 25. A NEW SECTION OF KRS CHAPTER 96 IS CREATED TO READ AS FOLLOWS:

(1) This section and the applicable provisions of Sections 15 to 21 of this Act shall apply to any director

of any municipal utility board or commission created or operated pursuant to KRS Chapter 96.

(2) A director shall discharge his duties as a director, including his duties as a member of a committee:

(a) In good faith;

(b) On an informed basis; and

(c) In a manner he honestly believes to be in the best interest of the utility board or commission.

(3) A director shall discharge his duties on an informed basis if he makes inquiry, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, into the business and affairs of the utility board or commission, or into a particular action to be taken or decision to be made.

(4) In discharging his duties, a director may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

(a) One (1) or more officers or employes of the utility board or commission whom the director honestly believes to be reliable and competent in the matters presented;

(b) Legal counsel, public accountants, or other persons as to matters the director honestly believes are within the person's professional or expert competence; or

(c) A committee of the board of directors of which he is not a member if the director honestly believes the committee merits confidence.

(5) A director shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (4) of this section unwarranted.

(6) Any action taken as a director, or any failure to take any action as a director, shall not be the basis for monetary damages or injunctive relief unless:

(a) The director has breached or failed to perform the duties of the director's office in compliance with this section; and

(b) In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(7) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of subsection (6)(a) and (b) of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered.

(8) Nothing in this section shall eliminate or limit the liability of any director for any act or omission occurring prior to the effective date of this Act.

Section 26. The following KRS sections are repealed:

271A.205 Director conflicts of interest.

271A.270 Articles of incorporation.

HB 769, AN ACT relating to industrial loan companies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 291.410 TO 291.600 IS CREATED TO READ AS FOLLOWS:

In addition to the powers granted in KRS 291.460, an industrial loan company organized under this chapter may offer revolving credit plans in such manner and at the same rate as permitted by KRS 287.710 to 287.770 for banks and trust companies or combined banks and trust companies. All revolving credit plans offered by industrial loan companies under this section shall be secured by either a first or second mortgage on residential property.

The Committee Amendment No. 1 to **HB 769** is as follows:

Amend printed copy of **HB 769** on page 1, line 5 after "*and*" by inserting "*amount and*".

Representative Kerr moved that **HB 173** be taken from the Clerk's Desk and placed in the Orders of the Day, March 9, 1988. Agreed.

Representative Deskins moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (continued)

The Clerk announced the following Bills have been posted for Committee consideration:

Natural Resources and Environment: **HB 875, HB 930.**

The Clerk announced the following Bill has been withdrawn from Committee Consideration:

Natural Resources and Environment: **HB 506.**

Representative B. Jones moved that **HB 589** be recommitted to the Committee on Appropriations and Revenue. Agreed.

Representative Gray moved the rules be suspended to act upon Legislative Citation. Agreed.

Representative Gray moved the adoption of Legislative Citation No. 78. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds RHEA AND NEWMAN HERRING on the celebration of your Golden Wedding Anniversary on March 10, 1988. Your years together have been blessed with two devoted sons, Michael and David and nine wonderful grandchildren. With Rhea always at your side, Newman, you have made untold contributions to Lyon County. To name only a few—President and Director of the Farm Bureau, a member of the Water District Board for 20 years, the Housing Authority Board for 30 years and the Port Authority Board. You were honored by being listed in the Bicentennial issue of Personalities of the South, received a Master Conservation Award, and a Community Service Award.

This prestigious body joins Representative J. R. Gray in wishing you health, happiness and many more years of devotion to each other.

Representative Clarke moved that the vote by which **HB 589** was recommitted to the Committee on Appropriations and Revenue be reconsidered. Agreed.

Representative O'Brien moved that the rules be suspended for Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (continued)

The Clerk announced the following Resolution has been posted for Committee consideration:

State Government: **HCR 109.**

Motions, Petitions and Communications

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 204, Representative Siler; **HB 249**, Representatives Ark, P. Clark, Gedling, Seum; **HB 441**, Representative Bruce; **HB 550**, Representative B. Smith; **HB 551**, Representative B. Smith; **HB 552**, Representative B. Smith; **HB 607**, Representative Blevins; **HB 734**, Representative Seum; **HB 934**, Representative Geveden; **HB 993**, Representative Donnermeyer.

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "nay" on **HB 441**. Agreed.

Representative Cline moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cline moved that he be recorded as voting "yea" on **HB 640**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 652**. Agreed.

Representative Strong moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **HB 318**. Agreed.

Representative Lyne moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lyne moved that her vote be changed from "yea" to "nay" on **HB 318**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Second Committee Substitute to **HB 87**, by Representative Blevins:

Amend printed copy of Second Committee Substitute to **HB 87** on page 9, line 9, following "policeman," to add "*a full-time university safety and security officer appointed pursuant to KRS 164.950 to 164.970,*"

Floor Amendment No. 1 to **HB 235**, by Representative Farrow:

Amend printed copy of **HB 235** in the title, by adding after "mediation" the following, "and making an appropriation therefor"

Floor Amendment No. 1 to **HB 293**, by Representative Morris:

Amend printed copy of **HB 293** on page 1, below line 16, to insert the following:

"Section 2. KRS 186.565 is amended to read as follows:

(1) Any person who operates a motor vehicle in this state is deemed to have given his consent to a test

of his blood, breath, urine or saliva for the purpose of determining the alcoholic content of his blood, if arrested for any offense arising out of acts alleged to have been committed while the person was driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages or other substances which may impair one's driving ability. The test shall be administered at the direction of a law enforcement officer having reasonable grounds to believe the person to have been driving or in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages or other substance which may impair one's driving ability. The law enforcement agency by which the officer is employed shall designate which of the aforesaid tests shall be administered, and provide necessary equipment. The state shall provide one (1) breathalyzer and simulating unit for each county, paid for by state funds.

(2) Any person who is dead, unconscious or who is otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section and the test may be given.

(3) If a person under arrest refuses upon the request of a law enforcement officer to submit to a test designated by the law enforcement agency as provided in subsection (1) of this section, the requesting officer shall warn the person of the effect of his refusal to submit to the test. If the person again refuses, none shall be given, but the transportation cabinet, upon the receipt of a sworn report of the law enforcement officer that he had reasonable grounds to believe the arrested person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages or other substances which may impair one's driving ability, that the person refused to submit to the test upon the request of the law enforcement officer, and that the person again refused to submit to the test after the law enforcement officer warned him of the effect of his refusal, the cabinet shall immediately serve notice upon said person in writing by mailing the notice to the person by certified mail to the last known residence address of the person or if the address is unknown, to the last known business address of the person to appear before the secretary or his duly authorized agent and show cause why his license to operate a motor vehicle, or if said person is a nonresident his privilege to operate a motor vehicle within this state should not be revoked: or if the person is a resident without a license or permit to operate a motor vehicle in this state why that person should not be denied the issuance of a license or permit. The hearing shall be scheduled as early as practical but not sooner than ten (10) days after the issuance of the notice and at a time and place designated by the secretary.

(4) For the purpose of the hearing, held in accordance with the order to show cause, the secretary may appoint an examiner who shall have the power to preside at the hearing. Upon the hearing the secretary or his duly authorized agent may administer oaths and may issue subpoenas for the attendance of witnesses and the production of relevant books and papers and may require a reexamination of the licensee. The scope of the hearing shall cover the issues of whether a law enforcement officer had reasonable grounds to believe the person had been driving or was in actual physical control of a motor vehicle in this state while under the influence of intoxicating beverages or other substances which may impair one's driving ability, whether the person was placed under arrest, and whether he refused to submit to the test upon request of the officer. All testimony at the hearing shall be recorded. The secretary's ruling shall include a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue. The secretary within ten (10) days after the completion of the hearing shall order either: that the person's license to operate a motor vehicle, or, if the person is a nonresident, his privilege to operate a motor vehicle within this state be revoked for a period of not more than six (6) months or if the person is a resident without such license that there should be a denial of issuance of a license for a period of not more than six (6) months; or that no action be taken regarding said person's privilege to operate a motor vehicle. The secretary shall immediately notify the person of his ruling in writing by certified mail. If the person shall fail to attend the show cause hearing without good cause shown the secretary shall forthwith revoke the person's license or privilege to operate a motor vehicle or deny issuance of a permit or operator's license.

(5) If the revocation or determination that there should be a denial of issuance is sustained after the hearing, the person whose license or permit to drive or nonresident operating privilege has been revoked, or to whom a license or permit is denied, under the provisions of this section, may file a petition in the circuit court of the county in which the person resides or in the circuit court of the county in which the alleged offense was committed or in Franklin Circuit Court to review the final order of revocation or denial by the secretary within twenty (20) days after the final order has been issued. The perfected appeal suspends the order of revocation pending a final determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected. The transportation cabinet shall file with its answer a copy of the secretary's ruling and a transcript of evidence. The court's review is limited to whether the secretary's ruling is supported by substantial evidence and whether his action is arbitrary or capricious. An appeal to the Court of Appeals suspends the order of revocation pending a final

determination of the review. If the final judgment of the court finds against the person appealing, the period of revocation is determined by taking into account the period of time during which the revocation was effective before the appeal was perfected.

(6) When it has been finally determined that a nonresident's privilege to operate a motor vehicle in this state has been revoked, the cabinet shall give information in writing of the action taken to the motor vehicle administrator of the state of the person's residence and of any state in which he has a license. The provisions of this section shall not apply to a person who refuses to submit to a test of his blood, breath, urine or saliva if that person has enrolled in a driver's education program under the terms and conditions of KRS 186.560(4) and rules and regulations adopted thereunder.

(7) Any person who has had no previous conviction for violation of KRS 189.520 and who has refused to submit to a test of his blood, breath, urine, or saliva may apply to a district court of competent jurisdiction for permission to enter a driver's education program as provided pursuant to KRS 186.560. If he is permitted by the court to enter the program he shall be subject to the same terms and conditions as any other person entering the program. The cabinet shall suspend the license for six (6) months of any person participating in such program if he fails to satisfactorily complete such driver's education program.

(8) The provisions of this section shall not apply to a person who is acquitted of the violation of KRS 189A.010 and the cabinet shall not withhold, suspend, or revoke the operator's license of such person, nor shall the cabinet place any notation on such person's driver's license record indicating his refusal to take any of the tests set forth in this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) The license of any person whose license was suspended prior to the effective date of this Act and who was subsequently found to be not guilty of the violation of KRS 189A.010 shall have his license returned by the cabinet within ten (10) working days of the effective date of this Act and this Act shall be deemed retroactive for this purpose.

(2) Any notation placed, prior to the effective date of this Act on a driver's license of a person who is subsequently found not guilty of violating KRS 189A.010, indicating that such person refused to take any of the tests set forth in this section, shall be removed within ten (10) working days of this Act, and this Act shall be deemed retroactive only for this purpose and the purpose set forth in subsection (1) of this section."

Floor Amendment No. 1 to Committee Substitute to **HB 350**, by Representative Richards:

Amend printed copy of HCS for **HB 350** on page 8, line 4, to delete "*or by*"; and

On page 8, line 5, to delete "*the exercise of ordinary care should have known*"

Floor Amendment No. 2 to Committee Substitute to **HB 378**, by Representative Worthington:

Amend printed copy of HCS for **HB 378** on page 11, line 6, after the "(2)" insert the following: "*Any disabled veteran who has been declared to be at least seventy percent (70%) disabled by the veteran's administration and has not received any financial assistance from the veteran's administration toward the purchase of a vehicle, may, upon payment of an eleven dollar fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee, obtain a plate in accordance with this section. Under this provision, the plate shall be issued for a five (5) year period and annually upon application to the county clerk, and after payment of thirteen dollars fifty cents ($13.50), two dollars ($2) of which shall constitute the clerk's fee, the clerk shall issue a decal to renew the vehicle's registration. Such decal shall be affixed to the five (5) year registration plate. Transfer of a vehicle registered pursuant to this subsection shall be in accordance with the provisions of this section.*

(3)"

On page 11, line 15, renumber subsection, and renumber all subsequent subsections on pages 12 and 13 accordingly.

On page 12, line 12, after the first "of" by inserting "*subsection (1)*";

Floor Amendment No. 1 to **HB 505**, by Representative Overstreet:

Amend printed copy of **HB 505** on page 2, lines 3 through 6, to delete the same and to insert in lieu thereof:

"(b) If the weapon was carried by a person eighteeen (18) years of age or older in a container designed for that purpose under circumstances that would justify a prudent person in going armed for defensive purposes"

Floor Amendment No. 1 to Committee Substitute to **HB 512**, by Representative Ackerson:

Amend printed copy of HCS for **HB 512** on page 1, below line 9, to add:

"(3) If the court rejects the plea bargain agreement then it may be withdrawn and shall be of no force or effect."

Floor Amendment No. 1 to **HB 619**, by Representative Ackerson:

Amend printed copy of **HB 619** on page 1, line 21, after "*except*" insert "*knowledge acquired before the marriage took place concerning*".

The Clerk announced the following meetings:

The Committee on Counties and Special Districts, March 9, 1988, 10:00 a.m.

The Committee on Judiciary-Criminal, March 9, 1988, 8:00 a.m.

THe Committee on Banking and Insurance, March 9, 1988, 2:00 p.m., Room 109.

The Committee on Energy, March 9, 1988, 11:00 a.m.

The Committee on Appropriations and Revenue, March 9, 1988, 10:00 a.m.

The Committee on Rules upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m, Wednesday, March 9, 1988.

On the roll call the vote was yeas 73-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Jackson, A. Jones, R. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Napier, Nett, Noe, Noland, Northup, O'Brien, Pritchett, Rapier, Reinhardt, P. Richardson, Robinson, Scorsone, Seum, Siler, B. Smith, Stumbo, Todd, Turner, Walker, White, Will, Yates. Nays 2-Bronger, Preston.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 9, 1988

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Dr. William R. Jennings, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Pritchett.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 4, 1988 be dispensed with and the same approved. Agreed.

Introduction of Resolutions

HR 137, by Representative P. Richardson: A RESOLUTION honoring Holly Van Meter, Kentucky Artist.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **SJR 50**.

State Government: **SB 231**.

Report of Committees

The Committee on Rules reported **HB 7**, **HB 244**, **HB 470**, **HB 488**, **HB 492**, **HB 519**, **HB 545**, **HB 557**, **HB 658**, **HB 667**, **HB 671**, **HB 709**, **HB 722**, **HB 728**, **HB 733**, **HB 747**, **HB 755**, **HB 761**, **HCR 17**, **HCR 114** and **SB 217** have been posted for passage in Orders of the Day, March 10, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 10, 1988: **HB 752**, **HB 841**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Education: **HB 844**, **HB 872**, **HB 904**.

Business Organizations and Professions: **HB 243**.

Senate Message

Announcing the passage of **SB 167**, **SB 301**, **SCR 69**, **HB 50** with Senate Committee Substitute, **HJR 57** with Senate Amendment and **HB 590**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 288**, **HB 469**, **SB 12** and **SB 13** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:05 p.m.)

HB 288 and **HB 469** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 354** with Committee Amendment attached thereto, **HB 591** with Committee Substitute attached thereto, **HB 720**, **HB 765**, **HB 789**, **HB 870** and **HB 937** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 354. AN ACT relating to the Kentucky state police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.055 is amended to read as follows:

(1) Promotions to sergeant within the bureau shall be on the following terms and conditions:

(a) The applicant must have served as a commissioned state police officer for a period of five (5) years to be eligible for promotion to sergeant;

(b) Promotions shall be based on the highest cumulative score computed from thirty percent (30%) on personnel performance evaluation, twenty percent (20%) on oral examination, and fifty percent (50%) on a written examination;

(c) The promotional list shall continue in existence for one (1) year and promotions shall be made in consecutive order beginning with the highest numerical ranking to fill an interim vacancy. When two (2) or more applicants receive the same numerical score, the order of placement on the list shall be determined by seniority of service. Upon the determination of a new numerical ranking following a new examination, all previous rankings shall be null and void;

(d) The written examination shall be prepared and administered by an individual designated by the commissioner. The materials and textbooks will be selected by the commissioner and his staff. The commissioner will inform all applicants at least three (3) months prior to the examination date of the exact material from which test questions will be taken;

(e) The written test shall be administered to all applicants at the same time. Immediately upon completion of the written test the applicant will receive his numerical score. Such numerical score shall remain valid for a period of two (2) years following the date of examination unless the source material upon which the test is based is changed by more than thirty percent (30%);

(f) The oral examination shall be conducted by interview boards designated by the commissioner consisting of the commissioner or his designated appointee not lower than rank of captain, an officer from another police agency of the rank equal to the position for which the applicant is competing, an instructor from an accredited law enforcement education program, a personnel director from private industry, and an officer from the Kentucky state police of the rank equal to the position for which the applicant is competing;

(g) The designated oral boards will perform all interviews under guidelines developed and approved by the commissioner;

(h) Personnel evaluations shall be made by the appropriate supervisory personnel under procedures established and approved by the commissioner.

(2) Promotions from sergeant to lieutenant within the bureau shall be on the same terms and conditions as promotions to sergeant. In addition, any applicant for lieutenant must have completed at least *three (3) years* [~~one (1) year~~] of continuous service in grade as sergeant.

(3) Promotions from lieutenant to captain within the bureau shall be on the same terms and conditions as promotions to lieutenant. In addition, any applicant for captain must have completed at least *three (3) years* [~~one (1) year~~] of continuous service in grade as lieutenant.

(4) The bureau will develop and administer only one (1) test for each of the above ranks. All eligible applicants will be permitted to participate in the promotional process to the next highest position of responsibility wherever a vacancy exists.

(5) The provisions of KRS 16.140 to the contrary notwithstanding, all ranks above the grade of captain are temporary and shall not be subject to the provisions for selection and promotion as required herein. All officers in such temporary positions shall serve at the pleasure of the commissioner and shall revert to their previous permanent rank upon the termination of their temporary appointment.

(6) The total number of supervisory officers of all classifications shall be limited to a ratio not to exceed one (1) supervisor for every five (5) non-supervisory officers.

(7) No officer of the bureau, other than temporary positions above the rank of captain, shall be promoted to the next highest rank without competing with other officers as prescribed by this promotional procedure.

(8) There shall be no discrimination based on race, sex, age, national origin, color, religion, creed, or political affiliation with respect to the bureau promotional system. All personnel actions are to be based solely on merit.

Section 2. KRS 16.075 is amended to read as follows:

(1) The bureau of state police *shall* [~~may~~] secure such automobile liability insurance as will reasonably protect the interest of members of the state police when in the conduct of official business.

(2) Policies authorized by this section shall be purchased only in accordance with regulations prescribed by the commissioner of insurance and the secretary of the finance and administration cabinet.

(3) The department may require members to purchase a non-owned car coverage rider on their personal automobile liability insurance policy, in order to meet the requirements of subsection (1) of this section.

(4) If the department requires its members to obtain a non-owned car coverage rider on their personal automobile liability insurance policy, the department shall reimburse the member for the cost of the rider.

(5) If a member's personal automobile liability insurance policy premium is increased as a result of his employment with the Kentucky state police, the department shall reimburse the member for the additional personal automobile liability insurance policy premium cost increase.

Section 3. KRS 16.080 is amended to read as follows:

(1) The commissioner shall adopt, formulate, alter and repeal [~~rules and~~] regulations for the enlistment, training, discipline and conduct of officers of the bureau and he may make any other [~~rules and~~] regulations for the governing and operation of the division as appear to him reasonably necessary to carry out the provisions of KRS 16.010 to 16.170.

(2) The commissioner may require any officer or civilian who receives or disburses public funds in the course of his duties to file a bond, conditioned that he will honestly, correctly and according to law, receive, disburse and account for all public moneys coming into his hands. The director and each officer shall execute a bond to the Commonwealth of Kentucky in the sum of not less than two thousand dollars ($2,000), conditioned upon the faithful discharge of his duties. The premium on the bonds shall be paid by the bureau. The commissioner and each officer of the bureau shall, before entering upon the discharge of their official duties, take the constitutional oath of office.

(3) Subject to the provisions of KRS 56.440 to 56.550, the commissioner, with the approval of the governor and the secretary of the finance and administration cabinet, may acquire real estate or interests therein, by purchase, lease or otherwise, necessary for the purposes of the bureau, and, with like approval, provide

for the acquisition or construction of necessary buildings and other permanent structures and facilities. Title to any real estate acquired shall be taken in the name of the Commonwealth.

Section 4. KRS 16.140 is amended to read as follows:

(1) With the exceptions hereinafter specified, no officer of the bureau shall be removed, suspended, reduced in grade or pay for any reason except inefficiency, misconduct, insubordination or violation of law or of any [~~rule or~~] regulation promulgated by the commissioner. Any person may prefer charges in writing against any officer, which must be filed in the office of the commissioner. The charges must be signed by the person making the same, and must set out with clarity and distinction each and every charge. The commissioner, whenever probable cause appears, shall prefer charges against any officer whom he believes to have been guilty of conduct justifying his removal or punishment, in the interest of public order. Within five (5) days after the filing of charges, the commissioner shall deliver a copy thereof, personally, by certified mail, return receipt requested to the officer offending. Within five (5) days after the receipt thereof, the officer may demand public hearing, or may admit the truth of the charges in whole or in part. If the officer admits the truthfulness of the charges, the commissioner shall remove, suspend, reduce in rank or pay the officer so offending, in proportion to the seriousness of the charges.

(2) If the charges are denied and the officer demands a hearing within the time above specified, he must make his demand known to the commissioner in writing. After demand for hearing has been made, the commissioner within twenty (20) days from the date thereof shall arrange for a public hearing before a trial board to be constituted in the manner hereinafter provided. The officer defendant shall be given not less than five (5) days' notice of the time, place and hour of the hearing.

(3) Upon the hearing, all charges shall be considered traversed and put in issue, and the trial shall be confined and limited to the issues presented by the written charges. The trial board hearing the charges may summon and compel the attendance of witnesses at all hearings or sittings, by subpoena issued by the commissioner and served upon any witness by any sheriff or other person authorized by law to serve process. If any person fails to comply with any lawful order of the bureau or with process, or if any witness refuses to testify concerning any matter in which he may lawfully be interrogated, any circuit court judge, upon application of the trial board, or the commissioner, may compel obedience by proceedings for contempt as in the case of disobedience of a subpoena issued from the circuit court or a refusal to testify therein.

(4) The officer defendant shall have the right to subpoena in his behalf any witnesses he may desire, upon furnishing their names to the trial board or to the commissioner. The officer shall likewise have the right to appear in person and by counsel.

(5) All charges against the officer defendant, together with all proceedings before the trial board, shall be transcribed and reduced to writing and a permanent record kept thereof.

(6) In any instance where the commissioner has probable cause to believe that an officer has been guilty of conduct justifying his removal or punishment, he may immediately suspend the officer from duty, or from both pay and duty, pending trial, and the officer shall not be again placed on duty or allowed pay thereafter until a determination of the charges under this section.

(7) The trial board, after hearing the charges, shall fix the punishment of any officer found guilty of any one (1) or more charges, by reprimand or suspension for any length of time not to exceed six (6) months, or by reducing the grade if the officer's classification warrants same, or by combining any two (2) or more of the punishments, or by reducing the monthly salary of the officer by not more than twenty percent (20%) for not more than six (6) months, or by removing or dismissing from the service of the bureau any officer so found guilty.

(8) For the purpose of hearing charges against any officer, as hereinabove set forth, there is created a trial board; *which shall consist of five (5) officers of the department with a permanent rank of captain, lieutenant, sergeant or trooper. The members of the trial board shall be elected annually on the first Monday in November and shall assume their position on the board on the first day of January following their election. Trial board members shall not serve consecutive one (1) year terms but shall be eligible for trial board membership after they have set out one (1) year. The trial board shall be composed of officers chosen by random selection from a pool of officers elected by fellow officers of like rank. For example, only troopers shall elect all the troopers who are to be members of the pool. The pool shall consist of thirty (30) officers which shall include one (1) captain, two (2) lieutenants, three (3) sergeants and twenty-four (24) troopers. On the same day that the members of the*

pool are elected, four (4) of the five (5) trial board members shall be chosen from the pool by a random selection process to be determined by the commissioner of state police. The fifth member of the trial board shall be chosen from the pool, by a random selection process to be determined by the commissioner, upon notifying the officer defendant of his hearing date before the trial board. An officer which holds the same rank as that of the officer defendant shall be chosen from the pool, except that if the officer defendant is above the rank of captain, the selection shall be the officer in the pool with the rank of captain. If for some reason there are no pool members left over with the same rank as the officer defendant, a random selection shall be made from the remaining officers of the department with a rank like that of the officer defendant.

(a) For the purpose of this section the following words and phrases shall have the meaning indicated:

1. "Fiduciary" includes such relationships as executor, administrator, conservator, trustee, and guardian;

2. "Financial interest" means ownership of a legal or equitable interest, however small, or a relationship as director, advisor, or other active participant in the affairs of a party, except that:

a. Ownership in a mutual or common investment fund that holds securities, or a proprietary interest of a policyholder in a mutual insurance company, of a depositor in a mutual savings association, or similar proprietary interest, or ownership of government securities is a "financial interest" only if the outcome of the proceeding could substantially affect the value of the interest;

b. An office in an educational, religious, charitable, fraternal, or civic organization is not a "financial interest" in securities held by the organization.

(b) Any member of the trial board shall disqualify himself and another member will be chosen as he was:

1. Where he has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceedings, or has expressed an opinion concerning the merits of the proceeding;

2. Where he knows that he, individually or as a fiduciary, or his spouse has a pecuniary or proprietary interest in the subject matter in controversy or in a party to the proceeding;

3. Where he or his spouse, or a person within the third degree of relationship to either of them, or the spouse of such a person:

a. Is a party to the proceeding, or an officer, director, or trustee of a party;

b. Is known to have an interest that could be substantially affected by the outcome of the proceeding;

c. Is likely to be a material witness in the proceeding.

4. Where he has knowledge of any other circumstances in which his impartiality might reasonably be questioned.

[~~which shall consist of the commissioner and of a panel of ten (10) officers of the bureau appointed by the commissioner. The commissioner shall designate from the panel not less than three (3) nor more than seven (7) members thereof to hear charges against any officer in the manner and under the procedure above set forth. The commissioner may promulgate reasonable rules and regulations governing the procedure before the trial board, which do not conflict with this section. The panel or trial board shall be a continuing body, and the officers designated shall serve thereon in addition to their other duties and without any increase in compensation, except they may be reimbursed for meals, lodging and traveling expenses incurred while in the performance of their official duties as members of the board. Any officer defendant may for cause challenge the right of any member of the board in the trial of any action against him, and if the remaining members of the board find that the challenge is justifiable, the member of the board shall be excused from hearing the charges. and another member substituted in lieu thereof.~~]

(9) *If an officer is found not guilty of charges preferred against him, by the commissioner of state police or any other person, the officer shall be compensated for legal fees he has incurred as a result of his defense against these specific charges and the department of state police shall pay the officer up to twelve thousand*

dollars ($12,000) for his legal fee obligation [~~No officer is entitled to a hearing as provided in this section, unless his suspension is for more than twenty (20) days, or his pay reduced more than ten percent (10%); but if the officer receives more than twenty (20) days suspension or reduction in salary of more than ten percent (10%) within a period of one (1) year, he shall have the right to such hearing in the manner above provided~~].

(10) Any civilian employe may be discharged, suspended or reduced in pay at any time by the commissioner, pursuant to KRS Chapter 18.

(11) Any officer appointed to the bureau shall be considered on probation for a period of one (1) year from and after the date of his appointment, and during that period may be discharged or suspended or reduced in rank or pay, with or without cause, by the commissioner. The rights conferred upon an officer for a hearing, as provided in this section, shall not accrue until such officer has been employed by the bureau for a period of one (1) year or more.

Section 5. KRS 16.150 is amended to read as follows:

(1) Any officer of the bureau who shall be found guilty by the trial board of any charge as provided in KRS 16.140 shall have the right, within ten (10) days from the date of judgment of the trial board, to appeal to the Franklin Circuit Court[~~, provided the punishment be a suspension of more than twenty (20) days or his pay be reduced more than ten percent (10%), or if he is reduced in grade, if his classification so warrants, or is removed or dismissed from the department~~]; provided, however, the enforcement of the judgment of the trial board upon said charges shall not be suspended during said appeal.

(2) To perfect said appeal within the time specified, such officer shall file in the office of the clerk of the Franklin Circuit Court a copy of the order, of all the evidence heard and of all the steps taken by the trial board relative to such charges, but shall first post a bond to secure the cost of the action in a lump sum to be approved by the circuit clerk, with corporate surety approved by the department of insurance as to solvency and responsibility and authorized to transact business in this state, or he may post a cash bond. The members of the trial board and the commissioner shall be necessary parties to such appeal. The circuit clerk shall docket the case as though it were a petition in equity and shall immediately issue a summons for the appellee. The summons shall be returnable in the same manner as in equity cases. Service of summons upon the commissioner or acting commissioner shall be deemed service upon the board.

(3) Such action shall be set down for trial as soon as possible, and the hearing thereof shall be expedited in the same manner as a declaratory judgment suit.

(4) No new or additional evidence shall be introduced in the Franklin Circuit Court, except as to fraud or misconduct of some party engaged in the administration of KRS 16.010 to 16.170, or one who is a member of the trial board, but the court shall otherwise hear the case upon the record as attested by the board, and in all respects dispose of the appeal in a summary manner. Its review shall be limited to determining whether or not (a) the board acted without or in excess of its powers; (b) the order appealed from was procured by fraud; (c) if questions of fact are in issue, whether or not any substantial evidence supports the order appealed from. After such a hearing, the court shall enter a judgment sustaining or setting aside the order of the trial board appealed from. The cost of the action shall follow the judgment of the court.

(5) Any party aggrieved by a judgment of the Franklin Circuit Court may appeal to the Court of Appeals in the manner provided in the Rules of Civil Procedure, but such appeal shall be docketed within sixty (60) days from the entry of judgment; unless the time be extended by the circuit court, but in no event beyond one hundred twenty (120) days from the entry of judgment.

SECTION 6. A NEW SECTION OF KRS CHAPTER 16 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, "transfer expenses" shall mean the moving expenses incurred by a Kentucky state police officer as a result of his involuntary transfer to a new post assignment.

(2) Transfer expenses shall pay for the cost of hiring a commercial moving company, according to rates set by the division of motor carriers, or transfer expenses shall pay for the use of the following:

(a) A moving truck, based on rates set by the division of motor carriers;

(b) Labor expenses according to the current federal minimum wage;

(c) Moving dolly;

(d) Moving pads;

(e) Motor fuel; and

(f) Tolls.

(3) When a Kentucky state police officer receives an involuntary transfer to a new post assignment, the department of state police shall pay the officer's transfer expenses. The department shall pay no more than five hundred dollars ($500) for each involuntary transfer an officer receives.

(4) The officer shall not receive any compensation for his time used while moving, other than his current salary as a state police officer. The department shall establish the length of time an officer needs to move to his new post assignment.

The Committee Amendment No. 1 to **HB 354** is as follows:

Amend printed copy of **HB 354** on page 4, line 16, by deleting the new, underscored word "shall" and by removing the bracket and strike through for the word "[~~may~~]";

Page 4, on lines 24 through 26, by deleting lines 24 through 26 in their entirety.

Page 5, lines 1 through 11, by deleting lines 1 through 11 in their entirety.

Page 13, lines 7 through 12, by deleting lines 7 through 12 in their entirety;

Page 13, on line 13, by deleting the new, underscored language on line 13 and by renumbering subsequent subsections to conform.

Pages 16 and 17, by deleting Section 6 in its entirety.

HB 591, AN ACT relating to the taxation of motor fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Any person who shall purchase special fuels, on which the tax as imposed by KRS 138.565 has been paid, for nonhighway use shall be reimbursed for the full amount of the tax so paid on such special fuels; provided, however, that no refund shall be authorized unless applications therefor and all necessary information shall be filed with the revenue cabinet within ninety (90) days after the close of a calendar year in which such purchases were made; or at any time during the calendar year in which such purchases were made; and further provided that no refund shall be authorized for purchases of less than fifty (50) gallons.

(2) The only information to be required from the permit holder, by the revenue cabinet, in order that such refund may be allowed is as follows:

(a) Name and address of permit holder __________ permit number __________;

(b) Total number of gallons purchased __________ and total purchase price __________ (Invoices to be attached to refund application);

(c) Total number of gallons consumed in nonhighway use _____;

(d) Total number of gallons on which refund is claimed ______________ (line (b) minus line (c)).

Section 2. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless such person is the holder of an unrevoked refund permit issued by the revenue cabinet before the purchase of the gasoline *or special fuels*, which permit shall entitle such person to make application for a refund under KRS 138.343 to 138.355. To procure a permit every such person shall file with the cabinet an application under oath, on forms furnished by the cabinet, setting forth such information incident to the refunding of the tax paid on gasoline *or special fuels* as the cabinet may require. Such application shall be filed with the cabinet at least fifteen (15) days before the date when the permit is to become effective.

Section 3. KRS 138.347 is amended to read as follows:

(1) Each licensed gasoline *or special fuels* dealer shall, in accordance with the cabinet's requirements, keep at his principal place of business in this state a complete record of all such gasoline *or special fuels* sold by him under gasoline *or special fuels* refund invoices provided for in KRS 138.351, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold and the sale price.

(2) Every person to whom a refund permit has been issued under KRS 138.345 shall, in accordance with the cabinet's requirements, keep at his residence or principal place of business in this state a record of each purchase of gasoline *or special fuels* from a licensed dealer or the dealer's authorized agent, the number of gallons purchased, the name of the seller, and the date of purchase.

(3) The records required to be kept under subsections (1) and (2) of this section shall at all reasonable hours be subject to inspection by the cabinet or by any person duly authorized by it. Such records shall be preserved and shall not be destroyed until one (1) year after the date the gasoline *or special fuels* to which they relate was sold and purchased.

Section 4. KRS 138.349 is amended to read as follows:

No person shall execute a gasoline *or special fuels* refund invoice, as described in KRS 138.351, who is not a dealer, as defined in subsection (2) of KRS 138.210 or a sub-jobber duly authorized by a licensed dealer, to execute gasoline *or special fuels* refund invoices as his agent. In no instance shall refund invoices be executed for purchases from retail filling stations.

Section 5. KRS 138.351 is amended to read as follows:

(1) When gasoline *or special fuels* is sold to a person who shall claim to be entitled to refund under KRS 138.344, the seller of such gasoline *or special fuels* shall make out in duplicate, with double back carbon, a gasoline *or special fuels* refund invoice supplied by the cabinet, which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to such gasoline *or special fuels* has been assumed by the seller and that said excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline *or special fuels* so sold, the proposed use for which such gasoline *or special fuels* is purchased, and such other information as the cabinet shall require. The original of such gasoline *or special fuels* refund invoice shall be given to the purchaser and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the cabinet an application for refund on forms furnished by the cabinet, stating the quantity of gasoline *or special fuels* used for the purposes as set out in KRS 138.344. Such application shall be accompanied by the original invoice, or certified copy thereof, showing such purchase, and, if required by the cabinet, evidence of payment therefor. When the cabinet is satisfied that a refund is proper, it shall authorize ninety per cent (90%) of the amount of tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline *or special fuels* tax receipts.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of such person entitled thereto.

Section 6. KRS 138.353 is amended to read as follows:

If any excise taxes on gasoline *or special fuels* be erroneously refunded, the cabinet shall advise the payee by certified mail. return receipt requested of the erroneous refund. If the payee fails to reimburse the Commonwealth within fifteen (15) days after the receipt of the letter, an action may be instituted by the cabinet in the Franklin Circuit Court and the cabinet shall recover from the payee the amount of the erroneous refund plus a penalty of twenty percent (20%).

Section 7. KRS 138.354 is amended to read as follows:

(1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline *or special fuels* refund invoice, or in an application for a refund of any taxes as set out in KRS 138.343 to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline *or special fuels* under the provisions of KRS 138.343 to 138.355, shall use or permit such gasoline *or special fuels* or any part thereof to be used for any purpose other than as provided in KRS 138.344.

(2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the revenue cabinet subject to appeal to the Kentucky board of tax appeals as provided by law, and may not be reissued until two (2) years have elapsed from the date of such revocation.

(3) The refund permit of any person who shall violate any provision of KRS 138.343 to 138.355, other than those contained in subsection (1) of this section, may be suspended by the revenue cabinet for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky board of tax appeals.

(4) If a dealer violates any provision of KRS 138.343 to 138.355, his privilege to sign gasoline *or special fuels* refund invoices may be suspended by the revenue cabinet for a period of not more than two (2) years subject to appeal to the Kentucky board of tax appeals. No refund shall be made on gasoline *or special fuels* purchased from a dealer while a suspension of his privilege to sign gasoline *or special fuels* refund invoices is in effect.

Section 8. KRS 138.565 is amended to read as follows:

(1) An excise tax at the rate levied in KRS 138.220(1) and (2) is hereby levied and shall be paid by the special fuels dealer to the cabinet *on all special fuels received in this state*[~~:~~

~~(a) For all special fuels delivered into any tank or other container equipped with a hose or other apparatus designed to dispense such fuels into the fuel supply tank of a motor vehicle except when such deliveries are made to another licensed special fuels dealer. The tax imposed by this section shall not apply to special fuels delivered into storage facilities of consumers or persons engaged in the business of selling special fuels for use in motor vehicles when such special fuels are to be sold or used for nonhighway purposes and provided that the storage facilities for such special fuels have been approved and identified as nontaxable storage pursuant to regulations of the cabinet provided that the cabinet may not refuse to approve such nontaxable storage except for adequate cause;~~

~~(b) For all special fuels withdrawn by any special fuels dealer and dispensed into the fuel supply tank of a motor vehicle~~]. An allowance of one percent (1%) of the tax shall be made to the special fuels dealer to cover unaccountable losses, bad debts, and handling and reporting the tax. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the special fuels dealer to collect the tax, it shall be presumed that all special fuels delivered by any special fuels dealer within this state are taxable unless the contrary is established by the special fuels dealer pursuant to regulations prescribed by the cabinet.

(2) No other excise or license tax shall be levied or assessed on special fuels by any political subdivision of the state.

(3) For purposes of the excise tax on special fuels provided by subsection (1) of this section, the supplemental highway user motor fuel tax, as provided by KRS 138.220(2) shall not exceed two cents (2).

The Committee Substitute to **HB 591** is as follows:

HB 591. AN ACT relating to the taxation of motor fuels.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.210 is amended to read as follows:

As used in KRS 138.220 to *138.500* [~~138.340~~], unless the context requires otherwise:

(1) "Accountable loss" [~~of gasoline~~] means loss or destruction of "received" gasoline *or special fuel* through wrecking of transportation conveyance, explosion, fire, flood or other casualty loss, or [~~"received" gasoline~~] contaminated and returned to storage; provided that any such loss shall have been reported within thirty (30) days after discovery of such loss to the cabinet in a manner and form prescribed by the cabinet, supported by proper evidence which in the sole judgment of the cabinet substantiates the alleged loss or contamination and which is confirmed in writing to the reporting dealer by the cabinet. The cabinet may make any investigation deemed necessary to establish the bona fide claim of the loss;

(2) *(a)* "*Gasoline* dealer" means any person who:

1.[~~(a)~~] Imports into this state [~~and stores~~], or causes to be imported into [~~and stored in~~] this state, *nontaxpaid* gasoline for use, distribution, *storage* or sale and delivery in this state after it has been stored in this state; [~~provided that the term "dealer" as used in KRS 138.220 to 138.340 shall not include any person who imports gasoline acquired from a refiner or other supplier who, at the time of such importation, is a duly licensed dealer in this state, except as may otherwise be provided under regulations of the cabinet;~~]

2.[~~(b)~~] Receives or accepts delivery of *nontaxpaid* gasoline within this state into bulk storage facilities owned or operated for the storage of gasoline for transshipment within or without this state;

3.[~~(c)~~] Refines, produces, distills, manufactures, blends or compounds gasoline in this state; or

4.[~~(d)~~] Receives or accepts delivery within this state of gasoline for resale within this state in amounts of not less than an average of one hundred thousand (100,000) gallons per month during any prior consecutive twelve (12) months' period, when in the opinion of the cabinet, such person has sufficient financial rating and reputation to justify the conclusion that he will pay all taxes and comply with all other obligations imposed upon a dealer;

(b) "Special fuels dealer" means any person who:

1. Imports into this state, or causes to be imported into this state, nontaxpaid special fuels for use, distribution, storage or sale and delivery in this state after it has been stored in this state;

2. Receives or accepts delivery of nontaxpaid special fuels within this state into storage facilities owned or operated for the storage of special fuels for transshipment within or without this state; or

3. Refines, produces, distills, manufactures, blends or compounds special fuels in this state;

(3) "Cabinet" means the revenue cabinet;

(4) *(a)* "Gasoline" means all liquid fuels, including liquids ordinarily, practically and commercially usable in internal combustion engines for the generation of power, and all distillates of and condensates from petroleum, natural gas, coal, coal tar, vegetable ferments and all other products so usable except propane, butane or other liquefied petroleum gases, kerosene, cleaner solvent, fuel oil, diesel fuel and crude oil;

(b) "Special fuels" means and includes all combustible gases and liquids capable of being used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline, aviation jet fuel, kerosene not to be used to propel licensed motor vehicles, or liquefied petroleum gas as defined in KRS 234.100;

(5) "Received" or "received gasoline" *or "received special fuels"* shall have the following meanings:

(a) Gasoline *and special fuels* produced, manufactured or compounded at any refinery in this state or [~~gasoline~~] acquired by any dealer and delivered into or stored in refinery, marine or pipeline terminal storage facilities in this state shall be deemed to be received when it has been loaded for bulk delivery into tank cars or tank trucks consigned to destinations within this state. For the purpose of the proper administration of this chapter and to prevent the evasion of the tax and to enforce the duty of the dealer to collect the tax, it shall be presumed that all gasoline *and special fuel* loaded by any licensed dealer within this state into tank cars or tank trucks is consigned to destinations within this state unless the contrary is established by the dealer pursuant to rules and regulations prescribed by the cabinet; and

(b) Gasoline *and special fuel* acquired by any dealer in this state, and not delivered into refinery, marine or pipeline terminal storage facilities, shall be deemed to be received when it has been placed into storage tanks or other containers for use or subject to withdrawal for use, delivery, sale or other distribution. Dealers may sell gasoline *or special fuel* to licensed bonded dealers in this state in transport truckload, carload or cargo lots, withdrawing such [~~gasoline~~] from refinery, marine, pipeline terminal or bulk storage tanks, without paying the tax [~~on such gasoline~~]. In such instances the licensed bonded dealer purchasing such gasoline *or special fuel* shall be deemed to have received such *fuel* [~~gasoline~~] at the time of withdrawal from the seller's storage facility and shall be responsible to the state for the payment of the tax thereon [~~and shall report and pay the tax on such gasoline purchased and received~~];

(6) "Refinery" means any place where gasoline *or special fuel* is refined, manufactured, compounded or otherwise prepared for use;

(7) "Storage" means all gasoline *and special fuel* produced, refined, distilled, manufactured, blended or compounded and stored at a refinery storage or delivered by boat at a marine terminal for storage or delivered by pipeline at a pipeline terminal, delivery station or tank farm for storage;

(8) "Transporter" means any person who transports gasoline *or special fuel* on which the tax has not been paid or assumed;

(9) "Bulk storage facility" means gasoline *or special fuel* storage facilities of not less than twenty thousand (20,000) gallons owned or operated at one (1) location by a single owner or operator for the purpose of storing gasoline *or special fuel* for resale or delivery to retail outlets or consumers;

(10) "Average wholesale price" shall mean:

(a) The weighted average per gallon wholesale tank wagon price of gasoline, exclusive of the nine cents (9) per gallon federal tax in effect on January 1, 1984, any increase in the federal gasoline tax after July 1, 1984, and any fee on imported oil imposed by the Congress of the United States after July 1, 1986, as determined by the revenue cabinet from information furnished by licensed gasoline dealers. Dealers shall furnish within twenty (20) days following the end of the first month of each calendar quarter, such information regarding wholesale selling prices for the previous month as may be reasonably required by the cabinet;

(b) Notwithstanding the provisions of paragraph (a) of this subsection, for purposes of the taxes levied in KRS 138.220, [~~138.565,~~] 138.660 and 234.320, in no case shall "average wholesale price" be deemed to be less than one dollar and eleven cents ($1.11) per gallon, and in no case shall "average wholesale price" be deemed to be more than one dollar and fifty cents ($1.50) per gallon on or before June 30, 1982. In fiscal year 1982-83 the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of fiscal year 1981-82; in each subsequent fiscal year the "average wholesale price" shall not be deemed to increase more than ten percent (10%) over the "average wholesale price" at the close of the previous fiscal year;

(11) "Gasoline-alcohol blend" means a mixture of gasoline and fuel-grade alcohol in which the fuel-grade alcohol content is ten percent (10%) or less of the mixture;

(12) "Fuel-grade alcohol" means ethyl alcohol which is:

(a) At least one hundred and ninety-eight (198) proof;

(b) Denatured in accordance with legal requirements;

(c) Derived from United States produced corn, grain, or renewable resources, that is, ground, fermented and distilled by a licensed alcohol producer, in a plant facility that is powered primarily by United States produced coal; and

(d) Suitable for use in gasoline-alcohol blends.

(13) "Licensed alcohol producer" means a distiller of fuel-grade alcohol who is licensed and bonded pursuant to this chapter*;*

(14) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicles;

(15) "Public highways" means every way or place generally open to the use of the public as a matter or right for the purpose of vehicular travel, notwithstanding that they may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction;

(16) "Agricultural purposes" means purposes directly related to the production of agricultural commodities and the conducting of ordinary activities on the farm.

Section 2. KRS 138.220 is amended to read as follows:

(1) An excise tax at the rate of nine percent (9%) of the average wholesale price rounded to the third decimal when computed on a per gallon basis shall be paid on all gasoline *and special fuel* received in this state. *Except as provided by KRS 138.660* no other excise or license tax shall be levied or assessed on gasoline *or special fuel* by the state or any political subdivision of the state. The tax herein imposed shall be paid by the dealer receiving the gasoline *or special fuel* to the state treasurer in the manner and within the time specified in KRS 138.230 to 138.340 and all such tax may be added to the selling price charged by the dealer or other person paying the tax on gasoline *or special fuel* sold in this state. Nothing herein contained shall authorize or require the collection of the tax upon any gasoline *or special fuel* after it has been once taxed under the provisions of this section *unless such tax was refunded or credited.*

(2) In addition to the excise tax provided in subsection (1) of this section, there is hereby levied a supplemental highway user motor fuel tax to be paid in the same manner and at the same time as the tax provided in subsection (1) of this section. Such tax shall be calculated, starting with the quarter beginning July 1, 1986, by taking the excise tax resulting from the calculation provided for in subsection (1) of this section and adjusting such tax calculated, for each quarter, to reflect decreases in the average wholesale price, as defined in KRS 138.210(10)(a). The adjustment shall be made by calculating the difference between the average wholesale price computed for the quarter beginning October 1, 1985, as provided for in subsection (3) of this section, and the average wholesale price computed for the quarter beginning July 1, 1986 and each succeeding quarter, as provided for in subsection (3) of this section. In the event of a decrease in the average wholesale price computed for the quarter beginning October 1, 1985, and ending December 31, 1985, and the average wholesale price computed for the quarter beginning July 1, 1986, and each succeeding quarter, the excise tax shall be adjusted upward for that quarter. The upward adjustment shall equal one-half (1/2) of the decrease between the two (2) quarterly periods, rounded to the third decimal. In no case shall the adjustment provided by this subsection result in a supplemental highway user motor fuel tax greater than five cents (5) *on gasoline or two cents (2) on special fuel* and, notwithstanding any adjustment which may be calculated as provided by this subsection, in no case shall the supplemental highway user motor fuel tax for any quarter be less than the previous quarter. The supplemental highway user motor fuel tax provided by this subsection and the provisions of subsection (1) of this section shall constitute the tax on motor fuels imposed by KRS 138.220.

(3) Effective with the calendar quarter beginning July 1, 1980, the cabinet shall determine on a consistent basis the average wholesale price for each calendar quarter, on the basis of sales data accumulated for the first month of the preceding quarter. Notification of the average wholesale price shall be given to all licensed dealers at least twenty (20) days in advance of the first day of each calendar quarter.

(4) Dealers with a tax-paid gasoline *or special fuel* inventory at the time an average wholesale price becomes effective, shall be subject to additional tax or appropriate tax credit to reflect the increase or decrease in the average wholesale price for the new quarter. [~~For the purpose of this adjustment, average wholesale price on June 30, 1980, shall be deemed to be one dollar ($1).~~] The cabinet shall promulgate such rules and

regulations to properly administer this provision.

SECTION 3. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

It shall be presumed that all nontaxpaid motor fuels are subject to the tax levied under KRS 138.220 unless the contrary is established pursuant to KRS 138.210 to 138.500 or regulations promulgated thereunder by the revenue cabinet. The tax shall be paid by the licensed dealer to the cabinet. The burden of proving that any motor fuel is not subject to tax shall be upon the dealer or any person who imports, causes to be imported, receives, uses, sells, stores or possesses nontaxpaid motor fuel in this state. Any dealer or other person who imports, causes to be imported, receives, uses, sells, stores or possesses nontaxpaid motor fuels but fails to comply with all statutory and regulatory restrictions applicable to such fuel shall be jointly and severally liable for payment of the tax due on such fuel. Such liability shall not be extinguished until the tax due has been paid to the cabinet.

Section 4. KRS 138.230 is amended to read as follows:

Every dealer receiving gasoline *or special fuel* in this state shall keep, and preserve for *five (5)* [~~two (2)~~] years, an accurate record of all receipts and of all production, refining, manufacture, compounding, use, sale, distribution and delivery of gasoline *and special fuel*, together with invoices, bills of lading and other pertinent records and papers required by the revenue cabinet. Every person purchasing gasoline *or special fuel* from a dealer for resale shall keep, and preserve for a period of *five (5) years* [~~one (1) year~~], a record of all such gasoline *or special fuel* so purchased and sold or used, and the amount of tax paid to the dealers as part of the purchase price, together with delivery tickets, invoices, bills of lading and such other records as the cabinet shall require.

Section 5. KRS 138.240 is amended to read as follows:

(1) Every *gasoline* dealer *and every special fuels dealer*, or the treasurer or other proper officer or agent of every *such* dealer, shall, by the twenty-fifth day of each month, transmit to the revenue cabinet *reports* [~~a report~~] on such forms as the cabinet may prescribe, of the total number of gallons of gasoline *and special fuel* received in this state during the next preceding calendar month. This report shall include the following information:

(a) An itemized statement of the number of gallons received that have been produced, refined, manufactured or compounded by the dealer in this state during the next preceding calendar month; and

(b) An itemized statement of the number of gallons [~~of gasoline~~] received by the dealer in this state from any source during the next preceding calendar month as shown by shippers' invoices, other than the gasoline *and special fuel* falling within the provisions of paragraph (a) of this subsection, together with a statement showing the date of receipt [~~of such gasoline~~], the name of the person from whom purchased, the date of receipt of each shipment, the point of origin and the point of destination, the quantity of each purchase or shipment, the name of the carrier, the initials and number of each tank car, the date of receipt and the number of gallons contained in each car if shipped by rail or the name and owner of the boat, ship, truck, transport, barge or vessel if shipped by water.

(2) The *reports* [~~report~~] required by subsection (1) of this section shall also contain an itemized statement of the number of gallons [~~of~~] received *by* [~~gasoline that~~] the dealer [~~has,~~] during the preceding calendar month *of*:

(a) *Gasoline* sold to the United States government in single deliveries of not less than two thousand (2,000) gallons each;

(b) *Gasoline and special fuels* sold for delivery in this state in transport truck, tank car or cargo lots to licensed bonded dealers. The statement shall give a record of all such transport truck, tank car or cargo sales [~~of gasoline~~], giving the date of shipment, the number of gallons contained in each shipment, the name of owner and license number of truck if shipped by transport truck, the initials and number of the tank car if shipped by rail, the name and owner of the boat, barge or vessel and the number of gallons contained therein if shipped by water, and the name of the person to whom sold, point of shipment and point of delivery;

(c) *Gasoline and special fuels* lost through accountable losses; and

(d) *Gasoline and special fuel* exported or sold for export from this state to any other state *in transport truck, tank car or cargo lots.*

Section 6. KRS 138.250 is amended to read as follows:

(1) Any person who produces, refines, manufactures or compounds gasoline *or special fuel* in this state shall, by the twenty-fifth day of each month, file a report with the revenue cabinet, on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline *and special fuels* at sixty degrees Fahrenheit produced, refined, manufactured or compounded, the number of gallons at sixty degrees Fahrenheit withdrawn from storage and received and the number of gallons withdrawn at sixty degrees Fahrenheit from refinery storage and shipped to points outside of this state, and the number of gallons at sixty degrees Fahrenheit withdrawn from refinery storage and shipped to points within this state upon which the tax has not been paid. This report shall give in detail such information as the cabinet may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment, the point of destination and the name of carrier to whom delivered for transportation to destination.

(2) Any person who imports and stores gasoline *or special fuel* in any marine or pipeline terminal storage in this state, shall by the twenty-fifth day of the month, file a report with the revenue cabinet, on forms prescribed by it, covering the next preceding calendar month, showing the number of gallons of gasoline *and special fuels* at sixty degrees Fahrenheit unexported and stored, the number of gallons at sixty degrees Fahrenheit withdrawn from storage and received, the number of gallons at sixty degrees Fahrenheit withdrawn from storage and shipped to points outside of this state, and the number of gallons [~~of gasoline~~] at sixty degrees Fahrenheit withdrawn from storage and shipped to points within this state, upon which the tax has not been paid. This report shall give in detail such information as the cabinet may require, regarding each separate shipment, the date of shipment, the number of gallons at sixty degrees Fahrenheit in each shipment, the name of owner and license number of truck if shipped by transport truck, the initial and number of tank car if shipped by rail, the name and owner of barge if shipped by water, the name and address of person to whom shipped, the point of shipment and point of destination, and the name of carrier to whom delivered for transportation to destination.

(3) There shall be allowed a monthly deduction for evaporation, shrinkage or unaccountable losses while in storage, of that number of gallons equal to the actual loss of gasoline *or special fuel* so sustained out of the total number of gallons of gasoline *or special fuel* stored in any marine terminal, refinery or pipeline terminal, except that such deduction may not in any event exceed three-fourths of one percent of the total number of gallons of gasoline *or special fuel* stored in any marine terminal, refinery or pipeline terminal. The remaining gasoline *and special fuel* placed in storage must be fully accounted for as in physical inventory, accountable loss, withdrawn for export or withdrawn from storage and received for taxable purposes.

(4) The number of gallons of gasoline *or special fuel* added to marine, pipeline or refinery storage shall be determined by the cabinet by actual measurement of terminal storage tanks in the manner it deems necessary.

Section 7. KRS 138.260 is amended to read as follows:

Every transportation company and every other person transporting gasoline *or special fuel* from without this state to points within this state, or between points within this state, shall report to the revenue cabinet on forms prescribed by the cabinet. The reports shall give the name and address of each person to whom deliveries of gasoline *or special fuel* have been made, the name and address of the original consignee if deliveries are made to any other than the original consignee, the name and address of the consignor, the point of origin, the point of delivery, the date of delivery, the number and initials of each tank car if shipped by rail, the quantity of each shipment and delivery in gallons, the manner of shipment and delivery, and such other information as the cabinet may require relative to the transportation and delivery of such *fuel* [~~gasoline~~]. The reports shall include intracity switching movements [~~of gasoline~~] in tank cars or otherwise. The reports shall be made under oath and shall be filed by the twenty-fifth day of each month, covering all such deliveries made within this state during the preceding calendar month.

Section 8. KRS 138.270 is amended to read as follows:

(1) *(a)* From the total number of gallons of gasoline *and special fuel* received by the dealer within this

state during the next preceding calendar month, [~~the following~~] deductions shall be made *for*[~~:~~

~~(a)~~] the total number of gallons [~~of gasoline~~] received by the dealer within this state that were sold or otherwise disposed of during the next preceding calendar month as set forth in subsection (2) of KRS 138.240. [~~; and~~]

(b) [~~That number of gallons of gasoline equal to two and one-fourth percent (2 1/4%) of the total number of gallons of gasoline received by the dealer within this state during the next preceding calendar month, less the total number of gallons deducted under paragraph (a) of this subsection, this deduction being allowed~~] To cover evaporation, shrinkage, unaccountable losses, collection costs, bad debts and handling and reporting the tax, *each dealer shall be allowed compensation equal to two and one-fourth percent (2 1/4%) of the net tax due the Commonwealth pursuant to KRS 138.210 to 138.500 before all allowable tax credits, except the credit authorized pursuant to Section 28 of this Act; provided, however, no compensation shall be allowed if the completed tax return and payment are not submitted to the revenue cabinet within the time prescribed by KRS 138.210 to 138.500.*

(2) The tax imposed by KRS 138.220(1) and (2) shall be computed on the number of gallons remaining after the deductions set forth in subsection (1) of this section have been made, and shall constitute the amount of [~~gasoline~~] tax payable for the next preceding calendar month.

(3) Notwithstanding any other provision of this chapter to the contrary, any person who shall remit to the cabinet, by the twenty-fifth day of each month, an amount equal to not less than ninety-five percent (95%) of his tax liability as finally determined for the previous month shall not be required to file the monthly reports required by this chapter until the last day of that month, and shall be permitted to claim as a credit against the tax liability shown due on such report the amount previously paid for such month.

Section 9. KRS 138.290 is amended to read as follows:

(1) If any dealer neglects or refuses to make *any* [~~the~~] return required by KRS 138.240 or to pay the tax at the time provided, a penalty of twenty percent (20%) thereof and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid as a part of the tax. If collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060.

(2) If any taxpayer subject to the penalty provided in subsection (1) of this section submits in writing to the cabinet, his reasons for failure to comply with KRS 138.240, and if the cabinet finds the reasons evidence of justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty exacted therein to five percent (5%) of the amount of the tax due and delinquent, provided that the cabinet may reduce or waive the penalty when in the sole discretion of the cabinet the exaction of the penalties provided above would be inequitable or unjust.

(3) Any dealer or transporter who fails to make any report or return required under KRS 138.240 or KRS 138.260 within the time required shall pay a penalty of *twenty-five* [~~ten~~] dollars *($25)* [~~($10.00)~~] to be assessed and collected in the manner provided for the assessment and collection of taxes under KRS 138.210 to KRS 138.340 inclusive or in a civil action, at the instance of the cabinet. In addition such delinquent may be compelled to make the required report or return.

Section 10. KRS 138.300 is amended to read as follows:

No dealer or other person shall fail or refuse to make the returns and pay the tax prescribed by KRS 138.220 to 138.280, or refuse to permit the revenue cabinet or its representatives appointed by the secretary of revenue in writing to examine his records, papers, files and equipment pertaining to the taxable business. No person shall make an incomplete, false or fraudulent return, or do or attempt to do anything to avoid a full disclosure of the amount of business done or to avoid the payment of the whole or any part of the tax or penalties due. No person shall fail to keep and preserve records of gasoline *and special fuel* manufactured, transported, received, used, sold or delivered or to make reports as required by KRS 138.230 to 138.280.

Section 11. KRS 138.310 is amended to read as follows:

(1) No person shall receive, use, sell, transport, store or distribute any gasoline *or special fuel* upon

which the tax *due* has not been paid or assumed or engage in the sale, storage or transportation of any gasoline *or special fuel* within this state upon which the tax has not been paid unless he is the holder of an uncanceled license issued by the revenue cabinet to engage in such business.

(2) Any [~~licensed~~] transporter, other than a regularly licensed gasoline *or special fuel* dealer, transporting gasoline *or special fuel* [~~upon which the tax has not been paid or assumed~~] by motor vehicle shall have plainly painted thereon *the* name, address, and permit number of *such* [~~licensed~~] transporter.

(3) Any person who engages in the business of receiving, using, selling, transporting, storing or distributing gasoline *or special fuel* in this state as a dealer, storage operator or transporter without holding an uncanceled license to engage in such business, or who without such license, receives, uses, sells, transports, stores, or distributes any gasoline *or special fuel* upon which the tax imposed by KRS 138.220 has not been reported and paid, shall pay a penalty equal to twenty per cent (20%) of the amount of the tax on such gasoline *or special fuel* so received, used, sold, transported, stored or distributed.

Section 12. KRS 138.320 is amended to read as follows:

(1) To procure the license required by KRS 138.310, every dealer or transporter so required shall file with the revenue cabinet an application in such form and containing such information as the cabinet may deem necessary.

(2) If the dealer or transporter is a corporation organized under the laws of another state, it shall file with its application a certified copy of the certificate or license issued by the secretary of state of this state showing that the corporation is authorized to transact business in this state.

(3) At the time of filing application for a license, a bond of the character stipulated and in the amount provided for in KRS 138.330 shall be filed with the cabinet. No license shall be issued upon any application unless accompanied by this bond.

(4) If application for such a license is filed by any person whose license has at any time previously been canceled for cause by the cabinet, or if the cabinet is of the opinion that the application is not filed in good faith, or that the application is filed by some person as a subterfuge for the real person in interest whose license or registration has previously been canceled for cause by the cabinet, the cabinet may, after a hearing of which the applicant has been given five (5) days' notice in writing, and in which the applicant shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) The application in proper form having been accepted for filing, and the bond having been accepted and approved, the cabinet shall issue to the applicant a license, subject to cancellation as provided by KRS 138.340. The license shall not be assignable, and shall be valid only for the person in whose name it is issued, and shall be displayed conspicuously in the principal place of business of the dealer in this state.

(6) The cabinet shall keep and file all applications and bonds, with an alphabetical index thereof, together with a record of all licensed dealers or transporters. The cabinet shall publish and keep currently up to date a list of licensed dealers and transporters, and transmit a copy of list and all revisions thereof to all licensed dealers and transporters.

(7) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise cancelled.

Section 13. KRS 138.330 is amended to read as follows:

(1) Every dealer or transporter required to be licensed under KRS 138.310 shall file with the revenue cabinet a bond, issued by a corporation authorized to do surety business in Kentucky, in an amount not to exceed three (3) months' estimated liability as computed by the cabinet or five thousand dollars ($5,000) whichever is greater, or in the case of a new licensee in the minimum amount of five thousand dollars ($5,000) until such time as an estimated three (3) months' liability can be established, provided that the maximum amount of any such bond may be reduced to an amount sufficient in the opinion of the cabinet, considering the financial rating and reputation of the company, to insure payment to the cabinet of the amount of tax, penalties and interest for which the dealer or transporter may become liable. The bond shall be on a form and with a

surety approved by the cabinet. The dealer or transporter shall be the principal obligor and the state the obligee. The bond shall be conditioned upon the prompt filing of true reports by the dealer and transporter and the payment by the dealer to the state treasurer of all gasoline *and special fuel* excise taxes now or hereafter imposed by the state, together with all penalties and interest thereon, and generally upon faithful compliance with the provisions of KRS 138.210 to 138.340.

(2) If liability upon the bond is discharged or reduced, whether by judgment rendered, payment made or otherwise, or if in the opinion of the cabinet any surety on the bond has become unsatisfactory or unacceptable, the cabinet may require the licensee to file a new bond with satisfactory sureties in the same amount, failing which the cabinet shall forthwith cancel the license of such licensee. If a new bond is furnished as provided above, the cabinet shall cancel and surrender the bond for which the new bond is substituted.

(3) If upon hearing, of which the licensee shall be given five (5) days' notice in writing, the cabinet decides that the amount of the existing bond is insufficient to insure payment to the state of the amount of tax, penalties and interest for which the licensee is or may become liable, said licensee shall forthwith, upon the written demand of the cabinet, file an additional bond in the same manner and form with a surety thereon approved by the cabinet, in any amount determined by the cabinet to be necessary, failing which the cabinet shall forthwith cancel the license of the licensee.

(4) Any surety on a bond furnished as required by this section shall be released from all liability to the state accruing on such bond after the expiration of sixty (60) days from the date upon which the surety has lodged with the cabinet a written request to be released, but this request shall not operate to release the surety from any liability already accrued or which shall accrue before the expiration of the sixty (60) day period. The cabinet shall promptly, upon receipt of such request, notify the licensee who furnished the bond, and unless said licensee, before the expiration of the sixty (60) day period, files with the cabinet a new bond with a surety satisfactory to the cabinet in the amount and form hereinbefore provided, the cabinet shall forthwith cancel the license of the licensee. If approved new bond is furnished the cabinet shall cancel and surrender the bond for which the new bond is substituted.

Section 14. KRS 138.340 is amended to read as follows:

(1) If any dealer or transporter required to be licensed under KRS 138.310 files a false report of the data or information required by KRS 138.210 to 138.280, or fails, refuses or neglects to file the reports required by those sections, even though no tax is due, or to pay the full amount of tax as required by those sections, or fails to meet the qualifications of a dealer as set out in KRS 138.210 (2), or violates any other provision of this chapter, *the license of* said dealer or transporter may be *revoked* [~~cited~~] by the revenue cabinet [~~to show cause at a public hearing before the Kentucky board of tax appeals why his license should not be revoked~~]. Such licensee shall be notified by *certified or* registered letter or summons. The letter or summons shall apprise the licensee of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license may be revoked. The summons may be served in the same manner and by the same officers or persons as provided by the rules of civil procedure, or it may be served in said manner by an employe of the revenue cabinet. The hearing shall be set at least five (5) days after the summons is served or the letter delivered. Any aggrieved licensee may appeal from an order of revocation *by the revenue cabinet to* [~~of~~] the Kentucky board of tax appeals as provided by law, subject to the condition that the licensee has made bond sufficient in the opinion of the revenue cabinet to protect the Commonwealth from loss of revenue.

(2) The cabinet is hereby given the power to cancel the license upon request in writing from licensee such cancellation to become effective sixty (60) days from the date of receipt of the request. But no license shall be canceled upon the request of any licensee until and unless said licensee, prior to the date of such cancellation, pays to the state all excise taxes payable under the laws of the state together with any and all penalties and fines accruing by reason of any failure on the part of such licensee to make accurate reports as required or pay such taxes and penalties.

Section 15. KRS 138.341 is amended to read as follows:

(1) When *gasoline or special* [~~liquid~~] fuel on which the tax has been paid pursuant to the provisions of KRS 138.210 to 138.340 has been used for the purpose of operating any aircraft engaged in the transportation of persons or property, the purchaser of such liquid fuel so used shall be reimbursed to the extent of ninety-five percent (95%) of the tax paid. No tax shall be refunded except that paid upon such fuel used exclusively in such aircraft motors.

(2) No person shall be entitled to a refund hereunder unless he shall have first filed with the revenue cabinet a bond with approved surety in an amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the revenue cabinet, conditioned upon faithful compliance with this section and KRS 138.342 and upon the payment to the Commonwealth of any refunds to which he was not entitled.

Section 16. KRS 138.342 is amended to read as follows:

(1) Applications for refund *pursuant to KRS 138.341* shall on or before the last day of each month be made to the revenue cabinet on forms and in the manner prescribed by it for the refund of tax paid on aviation motor fuel used during the preceding month. Each application for a refund shall show the number of gallons of aviation motor fuel purchased during the preceding month; the date and quantity of each purchase; the vendor from whom such fuel was purchased; the number of gallons on which refund is claimed; and such other information as the revenue cabinet may require.

(2) The revenue cabinet shall audit the application and make such other investigation as it deems necessary to determine whether it constitutes a proper claim. When the revenue cabinet is satisfied that a refund is proper it shall authorize ninety-five percent (95%) of the amount of the tax paid to be refunded as other refunds are made and the amount refunded shall be deducted from current *motor fuel* [~~gasoline~~] tax receipts.

(3) When the revenue cabinet finds that an application for a refund contains a false or fraudulent statement or that a refund has been fraudulently obtained, the revenue cabinet shall refuse to grant any refunds to the person making such false or fraudulent statement or fraudulently obtaining a refund for a period of two (2) years from the date of such finding.

Section 17. KRS 138.344 is amended to read as follows:

(1) *Except as otherwise provided in KRS 138.220 to 138.500,* any person who shall purchase gasoline *or special fuel,* on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary [~~gasoline~~] engines or tractors for agricultural purposes, *or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes* shall be reimbursed for the full amount of the tax so paid on such gasoline *or special fuel;* provided, however, that no refund shall be authorized unless applications therefor and all necessary information shall be filed *annually* with the revenue cabinet within ninety (90) days after the close of *the* [~~a~~] calendar year *or quarterly within thirty (30) days following the end of the calendar quarter* during or in which such purchases were made; [~~or at any time during the calendar year during or in which such purchase was made;~~] and further provided that no refund shall be authorized for *any individual purchase* [~~purchases~~] of less than fifty (50) gallons.

(2) The [~~only~~] information to be required from the permit holder, by the revenue cabinet, in order that such refund may be allowed, is as follows:

(a) Name and address of permit holder ________ permit number ________________.

(b) Total number of gallons purchased ____________ and total purchase price ____________. (Invoices to be attached to refund application.)

(c) Total number of gallons used [~~in tractors~~] on highways _________.

(d) Total number of gallons on which refund is claimed ____________. (Line b minus line c.)

(e) Such other information as the cabinet may require to reasonably protect the revenues of the Commonwealth.

Section 18. KRS 138.345 is amended to read as follows:

No person shall secure a refund of tax under KRS 138.344 unless such person is the holder of an unrevoked refund permit issued by the revenue cabinet before the purchase of the gasoline *or special fuel,* which permit shall entitle such person to make application for a refund under KRS *138.344* [~~138.343~~] to 138.355. To procure a permit every such person shall file with the cabinet an application under oath, on forms furnished by the cabinet, setting forth such information incident to the refunding of the tax paid on gasoline *or special fuel* as the cabinet may require. Such application shall be filed with the cabinet at least fifteen (15) days before the date when the permit is to become effective.

Section 19. KRS 138.346 is amended to read as follows:

The cabinet may, [~~if the applicant for a refund permit has violated any provision of KRS 138.343 to 138.355 or regulation pursuant thereto, or has been convicted of bribery, theft or false swearing within the period of five (5) years preceding the application, or if the cabinet has evidence of the applicant's financial irresponsibility,~~] require the applicant to execute a corporate surety bond [~~of one thousand dollars ($1,000)~~] to be approved by the cabinet, conditioned upon the payment of all taxes, penalties and fines for which such applicant may become liable under KRS *138.344* [~~138.343~~] to 138.355. *Such bond shall be in an amount equal to an applicant's one (1) year estimated refund claim, but not less than one thousand dollars ($1,000).*

Section 20. KRS 138.347 is amended to read as follows:

(1) Each licensed gasoline *and special fuel* dealer shall, in accordance with the cabinet's requirements, keep at his principal place of business in this state a complete record of all such gasoline *and special fuel* sold by him under gasoline refund invoices provided for in KRS 138.351, which records shall give the date of each such sale, the number of gallons sold, the name of the person to whom sold and the sale price.

(2) Every person to whom a refund permit has been issued under KRS 138.345 shall, in accordance with the cabinet's requirements, keep at his residence or principal place of business in this state a record of each purchase of gasoline *and special fuel* from a licensed dealer or the dealer's authorized agent, the number of gallons purchased, the name of the seller, and the date of purchase.

(3) The records required to be kept under subsections (1) and (2) of this section shall at all reasonable hours be subject to inspection by the cabinet or by any person duly authorized by it. Such records shall be preserved and shall not be destroyed until *five (5) years* [~~one (1) year~~] after the date the gasoline *and special fuel* to which they relate was sold and purchased.

Section 21. KRS 138.348 is amended to read as follows:

(1) The cabinet may require any dealer or any dealer's authorized agent to identify refund gasoline *or special fuel* sold by him by adding thereto any chemical or substance, which shall be furnished by the cabinet and used in the manner as prescribed by the cabinet.

(2) Refund gasoline *and special fuel* shall not be sold in quantities of less than fifty (50) gallons. The refund permit holder shall receive and store all such gasoline *and special fuel* in containers plainly marked with distinguishing letters "Refund *Motor Fuel* [~~Gasoline~~]," and shall keep such containers on his premises accessible to agents of the cabinet and separate from other gasoline *and special fuel* stored on his premises.

(3) The revenue cabinet may, within its discretion, issue a refund permit for a portable storage facility provided the applicant satisfies the cabinet that the facility will be used exclusively for the purpose of fueling unlicensed vehicles or equipment at multiple locations for nonhighway purposes and that fueling such vehicles or equipment from a nonportable facility would not be practical.

(4) Every refund permit holder who uses on the public highways motor fuel of the type for which refund is claimed shall keep detailed records of all such motor fuel acquired, monthly odometer readings of all licensed motor vehicles owned or operated by the holder which use such fuel, and such other records as the revenue cabinet may, in writing, require to protect the revenues of the Commonwealth.

(5) Agents of the cabinet are authorized to go upon the premises of any permit holder or of any licensed gasoline *or special fuel* dealer or his authorized agent [~~as defined in KRS 138.343~~] to make inspections to ascertain any matter connected with the operation of KRS *138.344* [~~138.343~~] to 138.355 or the enforcement thereof; Provided, however, That no agent shall enter the dwelling of any person without the occupant's consent or the authority from a court of competent jurisdiction.

Section 22. KRS 138.349 is amended to read as follows:

No person shall execute a gasoline *or special fuel* refund invoice, as described in KRS 138.351, who is not a dealer, as defined in subsection (2) of KRS 138.210 or a sub-jobber duly authorized by a licensed dealer, to execute [~~gasoline~~] refund invoices as his agent. In no instance shall refund invoices be executed for purchases from retail filling stations.

Section 23. KRS 138.351 is amended to read as follows:

(1) When gasoline *or special fuel* is sold to a person who shall claim to be entitled to refund under KRS 138.344, the *licensed dealer or his duly authorized agent who sells* [~~seller of~~] such gasoline *or special fuel* shall make out in duplicate, with double back carbon, a gasoline *or special fuel* refund invoice supplied by the cabinet, which invoice shall have printed thereon that the liability to the Commonwealth of Kentucky for the excise tax imposed under KRS 138.220 with respect to such gasoline *or special fuel* has been assumed by the seller and that said excise tax has already been paid or will be paid by the seller when the same shall become payable, a statement setting forth the name and address of the purchaser, the number of gallons of gasoline *or special fuel* so sold, the proposed use for which such gasoline *or special fuel* is purchased, and such other information as the cabinet shall require. The original of such gasoline *or special fuel* refund invoice shall be given to the purchaser and the duplicate shall be retained by the seller.

(2) The refund permit holder shall file with the cabinet an application for refund on forms furnished by the cabinet, stating the quantity of gasoline *and special fuel* used for the purposes as set out in KRS 138.344. Such application shall be accompanied by the original invoice, or certified copy thereof, showing such purchase, and, if required by the cabinet, evidence of payment therefor. When the cabinet is satisfied that a refund is proper, it shall authorize [~~ninety per cent (90%) of~~] the [~~amount of~~] tax paid to be refunded as other refunds are made; and the amount refunded shall be deducted from gasoline *or special fuel* tax receipts *as appropriate*.

(3) The right to receive any refund under the provisions of this section shall not be assignable, except to the executor or administrator, or to the receiver, trustee in bankruptcy, or assignee in insolvency proceedings of such person entitled thereto.

Section 24. KRS 138.353 is amended to read as follows:

If any excise taxes on gasoline *or special fuel* be erroneously refunded, the cabinet shall advise the payee by certified mail, return receipt requested of the erroneous refund. If the payee fails to reimburse the Commonwealth within fifteen (15) days after the receipt of the letter, an action may be instituted by the cabinet in the Franklin Circuit Court and the cabinet shall recover from the payee the amount of the erroneous refund plus a penalty of twenty percent (20%).

Section 25. KRS 138.354 is amended to read as follows:

(1) No person shall make a false or fraudulent statement in an application for a refund permit or in a gasoline *or special fuel* refund invoice, or in an application for a refund of any taxes as set out in KRS *138.344* [~~138.343~~] to 138.355; or fraudulently obtain a refund of such taxes; or knowingly aid or assist in making any such false or fraudulent statement or claim; or having bought gasoline *or special fuel* under the provisions of KRS *138.344* [~~138.343~~] to 138.355, shall use or permit such gasoline *or special fuel* or any part thereof to be used for any purpose other than as provided in KRS 138.344.

(2) The refund permit of any person who shall violate any provision of subsection (1) of this section may be revoked by the revenue cabinet subject to appeal to the Kentucky board of tax appeals as provided by law, and may not be reissued until two (2) years have elapsed from the date of such revocation.

(3) The refund permit of any person who shall violate any provision of KRS *138.344* [~~138.343~~] to 138.355, other than those contained in subsection (1) of this section, may be suspended by the revenue cabinet for any period in its discretion not exceeding six (6) months with the right of appeal to the Kentucky board of tax appeals.

(4) If a dealer violates any provision of KRS *138.344* [~~138.343~~] to 138.355, his privilege to sign [~~gasoline~~] refund invoices may be suspended by the revenue cabinet for a period of not more than two (2) years subject to appeal to the Kentucky board of tax appeals. No refund shall be made on gasoline *or special fuel* purchased from a dealer while a suspension of his privilege to sign [~~gasoline~~] refund invoices is in effect.

Section 26. KRS 138.355 is amended to read as follows:

If the cabinet reasonably believes that any dealer or refund permit holder has been guilty of a violation of KRS *138.344* [~~138.343~~] to 138.355, which would subject the dealer or permit holder to a suspension or revocation of his license or permit under the provisions of subsections (2), (3) or (4) of KRS 138.354, said dealer or permit holder may be cited by the cabinet to show cause at a public hearing before the revenue cabinet why his license or permit should not be suspended or revoked. The dealer or refund permit holder shall be notified by *certified or* registered letter. The letter shall inform the dealer or refund permit holder of the charge or charges made against him and he shall have a reasonable opportunity to be heard before his license or permit may be revoked or suspended. The hearing shall be set at least five (5) days after the receipt of the letter. Any aggrieved dealer or refund permit holder may appeal any order entered to the Kentucky board of tax appeals as provided by law, subject to the condition that he make bond sufficient in the opinion of the cabinet to protect the Commonwealth from loss of revenue.

Section 27. KRS 138.445 is amended to read as follows:

(1) Any person who buys [~~and uses~~] any liquid fuel for the purpose of *dispensing it directly into fuel tanks installed in or attached to watercraft for the purpose of* operating or propelling *watercraft* [~~motor boats~~] shall be reimbursed and repaid ninety percent (90%) of the tax paid by him pursuant to the provisions of KRS 138.220 to 138.340 upon presenting to the revenue cabinet an application accompanied by the original invoices showing the payment of such purchases, including the liquid fuel tax thereon. The application shall set forth the total amount of the liquid fuel purchased and used by the applicant in the operation or propulsion of *watercraft* [~~motor boats~~].

(2) (a) When liquid fuel on which the tax has been paid pursuant to the provisions of KRS 138.220 to 138.340 has been used for the purpose of operating any *watercraft* [~~motor boat~~] and was delivered directly to the fuel tanks installed in or attached to the *watercraft* [~~motor boat~~], the purchaser of the liquid fuel so used shall be reimbursed to the extent of ninety percent (90%) of the tax paid. No tax shall be refunded except that paid upon such fuel used exclusively in *watercraft* [~~motor boat~~] motors; and

(b) No person shall be entitled to a refund hereunder unless he shall have first filed with the revenue cabinet a bond with approved surety in the amount of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) to be determined by the revenue cabinet and upon the payment to the Commonwealth of any refunds to which he was not entitled.

(3) All refund claims authorized by this section shall be filed *annually* with the revenue cabinet *within ninety (90) days after the close of the calendar year or quarterly within thirty (30) days following the end of the calendar quarter during or* within [~~four (4) months after the date on~~] which the liquid fuel shall have been purchased as shown by the invoice. Where the application for refund is mailed to the revenue cabinet, the date of mailing as shown by the postmark shall be taken as the time and date of filing with the cabinet.

(4) Refunds shall be made only on gasoline *and special fuels* purchased *by* [~~from~~] locations designated by the revenue cabinet.

SECTION 28. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on such fuel, provided the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that such fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use such special fuel for any other purpose. Special fuel delivered into a tank having no dispensing outlet and used exclusively to heat a commercial building shall be subject to refund pursuant to KRS 138.351 to 138.355. The revenue cabinet may require dealers claiming the credit authorized herein to submit such information as may be required by the cabinet to reasonably protect the revenues of the Commonwealth.

SECTION 29. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall administer the taxes provided under KRS 138.210 to 138.500 inclusive and may prescribe, adopt and enforce regulations relating to the administration and enforcement thereof.

(2) The cabinet shall, upon the request of the officials to whom are entrusted the enforcement of the motor fuels tax law of any other state, the United States, the provinces of the Dominion of Canada, forward to such officials any information which it may have relative to the manufacture, receipt, sale, use, transportation, shipment or delivery by any person of motor fuels, provided such other state or states provides for the furnishing of like information to this state.

SECTION 30. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Any gasoline dealer of special fuels dealer having a license revoked for the violation of any of the provisions contained in KRS Chapter 138 may within the discretion of the cabinet be denied the issuance of a gasoline dealer or special fuels dealer license, and any such licensee shall not have an interest in any such license either disclosed or undisclosed whether as an individual, partnership, corporation or otherwise.

Section 31. KRS 138.500 is amended to read as follows:

No suit shall be maintained in any court on any ground to restrain or delay the collection of the tax imposed by KRS 138.140, 138.220, *or* 138.460 [~~or 138.565~~]. The aggrieved taxpayer shall pay the tax under protest as and when due, and may at any time within two (2) years from the date of such payment sue the state through the finance and administration cabinet, in an action in any state or federal court having jurisdiction, for recovery of the tax so paid with interest thereon from the date of payment. If it is finally determined that the tax or any part thereof was wrongfully collected, for any reason, the finance and administration cabinet shall issue its warrant on the state treasurer for the amount of tax adjudged to have been wrongfully collected, together with interest thereon. The state treasurer shall pay the same at once in preference to other warrants or claims against the state. Such refunds of taxes paid under KRS 138.140 shall be paid out of the general fund, and such refunds of taxes paid under KRS 138.220 *or*[~~,~~] 138.460[~~, or 138.565~~] shall be paid out of the road fund. Separate suits need not be filed for each separate payment made, but recovery may be had in one (1) suit for all sums paid that are not barred by the limitation of two (2) years imposed by this section.

Section 32. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, excluding charter bus operators registered pursuant to KRS Chapter 281, shall pay a tax at the rate levied in KRS 138.220(1) and (2) on the amount of gasoline and *special fuels* [~~at the rate levied in KRS 138.565 on the amount of special fuels~~] used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1) of this section, on the amount of gasoline and at the rate of four and seven-tenths percent (4.7%) on the amount of special fuels used in operations on public highways of this state.

(3) The tax levied under subsections (1), and (2) of this section shall be computed and paid as provided in KRS 138.690.

(4) (a) In addition to the tax imposed in subsection (1) of this section, there shall be paid for every vehicle with a combined license weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds an annual supplemental highway users' tax;

(b) The annual supplemental highway users' tax shall be based upon estimated miles to be traveled by a vehicle in the Commonwealth for the succeeding year, using the total actual miles traveled from February 1 to January 31 of the preceding year. If no actual miles were traveled in the Commonwealth for the preceding year, the estimate shall be based upon reasonable expectations of miles to be traveled for the coming year. The annual supplemental highway users' tax shall be based upon the following schedule:

Annual Mileage Class	User Fee
Less than 10,000 miles	$150
10,000 - 19,999	160

20,000 - 29,999	170
30,000 - 39,999	180
40,000 and over	200

(c) The supplemental highway users' tax shall be paid prior to February 1, of each year;

(d) The tax imposed under this section is in addition to any other taxes or registration fees imposed on motor carriers; and

(e) All funds collected from the tax provided in this section plus any interest and penalties imposed with respect to the fee shall be classified as road funds.

(5) (a) The secretary of the transportation cabinet shall issue a supplemental highway users' tax decal to a motor vehicle for which application has been made, and for which the fee as set forth in subsection (4)(b) has been paid. A decal shall be effective from February 1 of each year through January 31 of the following year. Application for a supplemental highway users' tax decal shall be made in a manner prescribed by the secretary;

(b) Every motor carrier shall affix the supplemental highway users' decal to the motor vehicle in the manner prescribed by the secretary of the transportation cabinet. The decal may be used or displayed only on the vehicle for which it was issued; and

(c) The secretary of the transportation cabinet may issue a temporary fee permit to a vehicle for which application for a temporary permit has been made and for which a fee of fifty dollars ($50) has been paid as is required by the secretary. The temporary fee permit shall be valid for a ten (10) consecutive day period and shall be in lieu of the payment of the supplemental highway users' tax as provided in subsection (4)(b) of this section.

(6) In the event the actual mileage traveled by a motor vehicle for the first fiscal year exceeds the estimate for that vehicle made pursuant to subsection (4)(b) of this section, the vehicle shall pay an additional users' tax according to the actual miles traveled. Any additional annual supplemental highway users' tax required under this section shall be paid on or before July 31 of the following fiscal year.

(7) The secretary may impound any motor vehicle subject to the provision of KRS 138.685 for which a tax payment decal has not been purchased or is not properly displayed. The secretary may retain possession of the vehicle until the motor vehicle is in full compliance with the provisions of this section and all costs incurred in connection with the impoundment and storage of the vehicle have been paid by the motor carrier.

Section 33. KRS 138.990 is amended to read as follows:

(1) Any person who violates any provision of KRS 138.140, 138.146 or 138.195, for which a specific penalty is not provided, shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500) for the first offense; for each such subsequent offense he shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1,000) and, if the offender is an individual, may be confined in the county jail for not more than six (6) months. These fines shall be in addition to the civil penalties provided by KRS 138.165, 138.185 and 138.205.

(2) Any person who fails to supply the information required by subsection (8) of KRS 138.195 shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) for the first offense; for each subsequent offense he shall be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). These fines shall be in addition to any civil penalty provided by KRS 138.165, 138.185 and 138.205.

(3) Any person violating subsection (10) of KRS 138.195 or any regulations adopted thereunder, shall be fined not more than one thousand dollars ($1,000). This fine shall be in addition to any civil penalty provided by KRS 138.165, 138.185 and 138.205.

(4) Any person who makes a false entry upon any invoices or any record relating to the purchase, possession, transportation or sale of cigarettes, and presents any such false entry to the cabinet or any of its agents with the intent to avoid any tax imposed by KRS 138.130 to 138.205, shall be guilty of a felony and shall be imprisoned in the penitentiary for not less than one (1) nor more than two (2) years.

(5) Any person who shall counterfeit any cigarette tax evidence shall be guilty of a felony and imprisoned for not less than two (2) nor more than ten (10) years in the state penitentiary.

(6) Any person who sells, offers to sell or uses counterfeit cigarette tax evidence, affixed or unaffixed, with the intention of evading any tax imposed by KRS 138.130 to 138.205 shall be guilty of a felony and imprisoned for not less than two (2) or more than ten (10) years in the state penitentiary.

(7) Any person who fails to remit gasoline *or special fuel* tax money to the state as provided in KRS 138.280 is guilty of embezzlement of state funds, and shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Upon conviction of a second offense he shall be imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary.

(8) Any person who violates any of the provisions of KRS 138.300 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not more than six (6) months, or both. This penalty shall be in addition to the penalty provided in subsection (7) of this section.

(9) Any person who violates KRS 138.310 shall be fined not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000), or imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year, or both. Each day or part of a day of doing business as a dealer without an uncanceled license shall be a separate offense.

(10) Any person who violates any of the provisions of KRS 138.460 to 138.470 shall be fined not less than twenty-five dollars ($25) nor more than one thousand dollars ($1,000). If the offender is an individual, he may be imprisoned in the county jail for not more than six (6) months, or both so fined and imprisoned.

(11) Any person who violates any of the provisions of KRS 138.480 or 138.490 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than thirty (30) days, or both.

(12) If any offender under the provisions of subsections (1) to (9), (11) or *(16)* [~~(19)~~] of this section is a corporation, the principal officer or the officer directly responsible for the violation, or both, may be imprisoned as provided in those subsections.

(13) Any person who violates any provision of subsection (1) of KRS 138.354, whether or not his permit has been revoked [~~by the Kentucky board of tax appeals~~], shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned not exceeding one (1) year, or both, in the discretion of the court.

(14) [~~Any person, other than the holder of a refund permit, who shall knowingly violate any provision of KRS 138.343 to 138.355, shall be guilty of a misdemeanor and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned not exceeding one (1) year, or both, in the discretion of the court.~~

~~(15) Any person who makes a false or fraudulent statement in an application made pursuant to KRS 138.342 for a refund of taxes provided by KRS 138.341 or who fraudulently obtains such a refund or who knowingly aids or assists in making such a false or fraudulent statement or claim for refund, shall be guilty of a misdemeanor, and upon conviction thereof shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500), or imprisoned not exceeding one (1) year, or both, in the discretion of the court.~~

~~(16) Any person violating any provision of KRS 138.630 shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than six (6) months, or both. Upon conviction of a second offense, he shall be imprisoned for not less than one (1) year nor more than five (5) years in the state penitentiary.~~

~~(17)~~] Any person violating any provision of KRS 138.655 to 138.725 is guilty of a misdemeanor and upon conviction is punishable by a fine of not less than nineteen dollars ($19) nor more than five hundred dollars ($500) or by imprisonment in the county jail for not less than thirty (30) days nor more than six (6) months or by both such fine and imprisonment.

(15)[~~(18)~~] In addition to the penalties provided in KRS 138.990*(14)* [~~(17)~~], the motor vehicle or vehicles of any person violating any provision of KRS 138.720 shall be subject to seizure by any officer duly authorized to enforce the provisions of KRS 138.655 to 138.725.

(16)[~~(19)~~] Any person violating KRS 138.175 shall be confined in the penitentiary not less than two (2) nor more than five (5) years.

(17)[~~(20)~~] Any person who intentionally evades payment of the tax imposed by KRS 138.460 or 138.463 shall be liable for the taxes evaded, with applicable interest and penalties, and in addition shall be guilty of:

(a) A Class B misdemeanor if the amount of tax evaded is two hundred fifty dollars ($250) or less; and

(b) A Class A misdemeanor if the amount of tax evaded is greater than two hundred fifty dollars ($250).

Section 34. KRS 138.991 is amended to read as follows:

(1) Any person who shall change or alter the date, name, gallonage or other information shown on any invoice used to support any claim for refund authorized in KRS *138.341, 138.344,* 138.445, *Section 28 of this Act, or 138.662* shall forfeit the right to such refund.

(2) Any person, firm or corporation who shall make any false statement in connection with an application for the refund of any money, as provided in KRS *138.341, 138.344,* 138.445, *Section 28 of this Act, or 138.662* or who shall collect or cause to be repaid to him or to any person any such taxes without being entitled to the same [~~under the provisions of KRS 138.445~~] shall be fined not less than twenty-five dollars ($25.00) nor more than one thousand dollars ($1,000).

Section 35. KRS 138.992 is amended to read as follows:

Any person who knowingly uses gasoline *or special fuels,* the tax on which is subject to refund [~~under KRS 138.343 to 138.355~~], for any purpose other than *as provided in KRS 138.341, 138.344, 138.445, Section 28 of this Act, or KRS 138.662* [~~operating or propelling stationary gasoline engines or tractors for agricultural purposes~~], shall be fined not less than one hundred (100) nor more than five hundred dollars ($500), or imprisoned not exceeding one (1) year, or both so fined and imprisoned.

Section 36. The following KRS sections are repealed:

138.343 Definitions for KRS 138.343 to 138.355.

138.560 Definitions for KRS 138.560 to 138.640.

138.565 Tax on special fuels — Allowances — Limitation on supplemental highway user motor fuel tax on special fuels.

138.570 Licenses required — Application — Bond, issuance of license — Revocation — Nonassignability — Records.

138.575 Bond, form, amount and conditions — New bond to be executed, when — Hearing and notice on sufficiency of bond — Discharge of surety.

138.580 Cancellation of licenses — Voluntary surrender of license certificate — Notice to cabinet of discontinuation of business — Accrued taxes — Surrender of bond.

138.585 Records and other papers to be kept.

138.590 Monthly tax returns — Remittance.

138.591 Filing of monthly reports may be delayed.

138.615 Audit of books and records of licensee.

138.620 Method of payment of tax.

136.625 Penalties for failure or refusal to file return or report.

138.630 Prohibited acts.

138.640 Functions of revenue cabinet in administration of taxes provided under KRS 138.560 to 138.640.

138.645 Denial of license.

Section 37. The provisions of this Act shall become effective on August 1, 1988.

SECTION 38. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Every special fuels dealer shall, within twenty-five (25) days from August 1, 1988, report and pay to the revenue cabinet a floor stocks tax on special fuels equal to the tax imposed on such fuels by KRS 138.220 on the nontaxpaid gallons of special fuels in the possession of such dealers in this state at the close of business on July 31, 1988.

HB 720, AN ACT relating to property taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.220 is amended to read as follows:

(1) Deposits belonging to a resident of Kentucky in any national bank not of this state or in any bank, trust company, or combined bank and trust company not organized under the laws of this state, and unmanufactured tobacco insofar as it is subject to taxation by KRS 132.190 and 132.200, shall be listed, assessed and valued as of September 1 of each year. Money in hand shall be listed, assessed, and valued as of September 1 of each year. Shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, and all interest in such property, unless otherwise provided by law, shall be listed, assessed, and valued as of the beginning of business on January 1 of each year. All other taxable property and all interest in other taxable property, unless otherwise specifically provided by law, shall be listed, assessed, and valued as of January 1, 1962, and January 1 of each year thereafter. It shall be the duty of all persons owning or having any interest in any real property [~~or tangible personal property~~] taxable in this state to list or have listed such property with the property valuation administrator of the county where it is located, between January 1 and March 1 in each year, except as otherwise provided by law. It shall be the duty of all persons owning or having any interest in any intangible personal property *or tangible personal property* taxable in this state to list or have listed such property with the property valuation administrator of the county of taxable situs or with the revenue cabinet between January 1 and April 15 in each year, except as otherwise prescribed by law. All persons in whose name property is properly assessed shall remain bound for the tax, notwithstanding they may have sold or parted with it.

(2) Any taxpayer who has a reasonable excuse for not listing his property before the property valuation administrator or his deputy may make the necessary report required by the schedule as to the value of his property and may then return the schedule to the property valuation administrator. This shall be a compliance with the law in his particular case.

(3) Real property or any interest therein shall be listed in the taxing district where it is located, by the owner of the first freehold estate therein, and it shall be assessed without reference to conflicting title.

If the owner fails to list the property, the property valuation administrator shall nevertheless assess it. The property valuation administrator may swear witnesses in order to ascertain the person in whose name to make the list.

(4) Real property shall be assessed in the name of the owner, if ascertainable by the property valuation administrator, otherwise in the name of the occupant, if ascertainable, and otherwise to "unknown owner." The undivided real estate of any deceased person may be assessed to the heirs or devisees of such person without designating them by name.

(5) Beginning in the year 1951, all real property exempt from taxation by section 170 of the Constitution shall be listed with the property valuation administrator in the same manner and at the same time as taxable real property. The property valuation administrator shall maintain an inventory record of such tax-exempt property, but such property shall not be placed on the tax rolls. A copy of this tax-exempt inventory shall be filed annually with the revenue cabinet within thirty (30) days of the close of the taxing period. This inventory shall be in the form prescribed by the revenue cabinet. The revenue cabinet shall make an annual report itemizing all exempt properties to the governor and the legislative research commission within sixty (60) days of the close of the taxing period.

(6) Each property valuation administrator, under the direction of the revenue cabinet, shall review annually all real property listed with him under subsection (5) of this section and claimed to be exempt from taxation by section 170 of the Constitution. The property valuation administrator shall place on the tax rolls all such property that is not exempt. Any property valuation administrator who fails to comply with this subsection shall be subject to the penalties prescribed in KRS 132.990(2).

Section 2. KRS 132.290 is amended to read as follows:

(1) Any *real* property which has not been listed for taxation, for any year in which it is taxable, by the time the board of assessment appeals completes its work for that year shall be deemed omitted property. *Any personal property which has not been listed for taxation, for any year in which it is taxable, by the time the assessment is certified by the revenue cabinet under the provisions of KRS 133.180 shall be deemed omitted property.*

(2) All omitted property shall be assessed retroactively in the manner provided by law at any time within five (5) years from the date when it became omitted, but the lien thereby accruing on any such property, except real property, shall not prejudice the rights of bona fide purchasers acquired in the meantime.

(3) All omitted property voluntarily listed shall be subject to a penalty of ten percent (10%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(4) All omitted property not voluntarily listed shall be subject to a penalty of twenty percent (20%) of the amount of taxes, and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the taxes would have become delinquent had the property been listed as required by law, until the date the tax bill is prepared in accordance with KRS 133.230.

(5) When the property is assessed retroactively by action prosecuted in the manner provided by KRS 132.330 and 132.340, an additional penalty of twenty percent (20%) of the amount of the original tax, interest and penalty *may* [~~shall~~] be collected for the purpose provided in KRS 134.400 and paid into the state treasury. All other penalties and interest shall be distributed in the same manner as the tax.

Section 3. KRS 132.310 is amended to read as follows:

(1) Any person who has failed to list for taxation any property omitted from assessment [~~consisting of real property or tangible personal property~~], except such as is subject to assessment by the revenue cabinet, may at any time list such property with the property valuation administrator. The property valuation administrator shall proceed to assess *any omitted real* [~~the~~] property and shall within ten (10) days from the date the *real* property was listed notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4). *The revenue cabinet shall assess any omitted personal property and provide notice to the taxpayer in the manner provided in KRS 131.110.*

(2) The property valuation administrator may at any time list and assess any real [~~or tangible~~] property which may have been omitted from the regular assessment. Immediately upon listing and assessing omitted real [~~or tangible~~] property, the property valuation administrator shall notify the taxpayer of the amount of the assessment. The notice shall be given as provided in KRS 132.450(4).

(3) The notice to the taxpayer required by subsections (1) and (2) of this section shall specify a date and time at which the county board of assessment appeals will hear the taxpayer's protest of the omitted assessment. For purposes of hearing appeals from omitted assessments the county judge/executive shall notify the chairman of the board of assessment appeals of the date set for hearing and may authorize one member of the board to hear the appeal and issue a ruling of his decision on the assessment, which shall be appealable, to the Kentucky board of tax appeals as provided by KRS 131.340(2).

(4) Any property voluntarily listed as omitted property for taxation under this section shall be subject to penalties provided in KRS 132.290(3). Omitted property listed for taxation under this section by the property valuation administrator shall be subject to the penalties provided in KRS 132.290(4).

Section 4. KRS 132.320 is amended to read as follows:

(1) Any person who has failed to list for taxation his intangible personal property *or tangible personal property,* in whole or in part, because he was not called upon by the property valuation administrator or for any other reason, may at any time[~~, and shall after the property valuation administrator has returned his books,~~] list the property with the cabinet by reporting to the cabinet the full details and a correct description of the omitted property and its value. The cabinet may determine and fix the fair cash value, estimated at the price it would bring at a fair voluntary sale, of the property so reported and listed for taxation.

(2) Any person dissatisfied with or aggrieved by the finding or ruling of the cabinet may appeal such finding or ruling in the manner provided in KRS 131.110.

(3) The cabinet shall prescribe, promulgate and provide such rules, regulations, form and records as it deems necessary and proper for the listing and assessment of the property so assessed or to be assessed for taxation. The tax so assessed shall be paid to and collected by the cabinet. *Taxes collected by the cabinet on behalf of the county, school, and other local taxing districts shall be distributed to each district no less often than quarterly.*

(4) All property assessed pursuant to this section shall be liable for the payment of the taxes, interest and penalties provided by law for failure to list the property with the property valuation administrator or other assessment board, commission or authority within the time and in the manner prescribed by law, except that if the taxpayer voluntarily lists property under this section the twenty percent (20%) penalty provided to be paid to the cabinet shall not apply, unless the taxpayer on an appeal from the action of the cabinet attempts to reduce the assessment and is unsuccessful.

(5) If after demand by the cabinet, any taxpayer refuses to voluntarily list any intangible *or tangible personal* property omitted from assessment, the cabinet shall make an estimate of the fair cash value of the omitted intangible *or tangible personal* property from such information in its possession and assess the property for taxation and require payment of the taxes, penalties and interest due to the state *and local taxing districts* from the person thus assessed. Notice of the assessment shall be mailed to the taxpayer or his agent. The finality and review of any assessment made pursuant to this section shall be governed by the provisions of KRS 131.110. [~~Effective July 1, 1954, this procedure may be employed to secure an assessment of all omitted intangible property as defined in KRS 132.290 in any case where the taxpayer fails to list voluntarily after demand has been made upon him so to do.~~]

Section 5. KRS 132.360 is amended to read as follows:

(1) Any assessment of accounts receivable, notes, stocks or bonds or other intangible *or tangible personal* property that were listed with the property valuation administrator *or with the revenue cabinet as provided by KRS 132.220* may be reopened by the revenue cabinet within five (5) years after the date as of which they were assessed, unless the assessed value thereof is the face value in the case of accounts receivable and notes or the quoted value in the case of stocks and bonds, or has been established by a court of competent jurisdiction. If upon reopening the assessment the cabinet finds that the assessment was less than the fair cash value and should be increased, it shall give notice thereof to the taxpayer, who may within thirty (30) days thereafter protest to the cabinet and offer evidence to show that no increase should be made. After

the cabinet has disposed of the protest, the taxpayer may appeal from any such additional assessment as provided by KRS 131.110 and 131.340.

(2) Upon such assessment becoming final the cabinet shall certify the amount due to the taxpayer. The tax bill shall be handled and collected as an omitted tax bill, and the additional tax shall be subject to the same penalties and interest as the tax on omitted property voluntarily listed.

Section 6. KRS 132.486 is amended to read as follows:

(1) The revenue cabinet shall develop and administer a centralized ad valorem assessment system for intangible personal property *and tangible personal property*. This system shall be designed to provide on-line computer terminals and accessory equipment in every property valuation administrator's office in the state in order to create and maintain a centralized *personal property* [~~intangible~~] tax roll data base.

(2) State income tax returns and return preparation instructions shall be revised to facilitate the preparation of the [~~intangible~~] personal property tax return; however, the [~~intangible~~] personal property tax return shall be a separate document and shall be listed with the property valuation administrator in the county of taxable situs according to the provisions of KRS 132.220(1) or with the revenue cabinet. The revenue cabinet shall prescribe, promulgate and provide such rules, regulations, forms and records as it deems appropriate for the listing and assessment of [~~intangible~~] personal property.

(3) Appeals of personal property assessments shall not be made to the county board of assessment appeals. Personal property taxpayers shall be served notice under the provisions of KRS 132.450(4) and shall have the protest and appeal rights granted under the provision of KRS 131.110.

Section 7. KRS 132.530 is amended to read as follows:

[~~(1)~~] The property valuation administrator shall prepare the property tax rolls in legible form, according to taxing districts therein. He shall make additions to each column, to show the aggregate amount, value and number of each column in the tax rolls, and prove the accuracy before he returns the same.

[~~(2) Personal property of every kind shall be separately stated and valued in the appropriate column of the tax roll, and if there is no appropriate column it shall be valued and stated in the column headed "Miscellany."~~]

Section 8. KRS 133.030 is amended to read as follows:

(1) The county board of assessment appeals shall convene at the county seat on the *third* [~~second~~] Monday in *May* [~~June~~] in each year; except that no meeting shall be held until the tax roll has been completed and the inspection period has been held as provided by law, or until revaluation of the property has been completed by the property valuation administrator at the direction of the revenue cabinet as provided by KRS 132.690 or by the cabinet itself as provided by KRS 133.150. All records of the property valuation administrator, including all data concerning property sales within the preceding year, shall be available to the board while meeting.

(2) The first regular meeting day of the board shall be devoted to a review of the appeals filed with the county clerk as clerk of the board, including a review of recent sales of comparable properties provided in accordance with the provisions of subsection (1) of this section, and an inspection of the properties involved in the appeals when in the opinion of the board such inspection will assist in the proper determination of fair cash value.

(3) The board of assessment appeals shall continue in session only such time as is necessary to hear appeals. The board shall not continue in session more than one (1) day if there are no appeals to be heard nor more than five (5) days after it convenes in each year, unless an extension of time is authorized by the revenue cabinet upon request of the county judge/executive. Each board member shall be paid not less than ten (10) nor more than twenty-five dollars ($25) for each day he serves, the amount to be fixed by order of the fiscal court annually prior to May 1. This compensation shall be paid one-half (1/2) out of the county levy and the other half out of the state treasury.

(4) Members of temporary panels of the board shall serve at the pleasure of the county judge/executive,

provided however, that their appointment shall be limited to the time necessary for hearing appeals but in no case more than five (5) days except upon approval of an extension of time by the revenue cabinet. Compensation of panel members shall be in the same manner and at the same rate as provided for members of the board.

'Section 9. KRS 133.040 is amended to read as follows:

(1) The property valuation administrator shall complete the tax roll of all real property [~~and tangible personal property~~] in his county before the first Monday in *April* [~~May~~] of each year in accordance with law, and on or before that date he shall file with the revenue cabinet, on blanks to be forwarded by the cabinet, a recapitulation of all property assessed on said tax roll with his official certificate attached thereto. Such recapitulation shall show the assessment of property by types of property and by taxing districts. Within *fifteen (15)* [~~thirty (30)~~] calendar days after receiving the recapitulation the revenue cabinet shall direct the property valuation administrator to make any changes that are necessary to correct the assessment. The revenue cabinet shall preserve all recapitulations and schedules or a photographic facsimile thereof for a period of seven (7) years from the assessment date.

(2) At the time the property valuation administrator submits his property recapitulations to the cabinet he shall submit a copy of the recapitulations to the county judge/executive in each county, the treasurer or chief officer of each special district in the county, the chief administrative officer of the urban county and the superintendent of each local school district in his county.

Section 10. KRS 133.045 is amended to read as follows:

(1) The *real property* tax roll being prepared by the property valuation administrator for the current year, shall be open for inspection in the property valuation administrator's office for twelve (12) days beginning on the *first* [~~fourth~~] Monday in May of each year and shall be open for inspection for six (6) days each week one (1) of which shall be Saturday. In case of necessity, the revenue cabinet may order a reasonable extension of time for the inspection period of the tax roll or it may order that the inspection period be at a different time than that provided herein.

(2) The property valuation administrator shall cause to be published once during the week before the beginning of the inspection period, as provided in subsection (1) of this section, in a display type advertisement, the following information:

(a) The fact that the *real property* tax roll is open for public inspection;

(b) The dates of the inspection period;

(c) The times available for public review of the *real property* tax roll; and

(d) Instructions which provide details on the manner in which a taxpayer may file an appeal, if he is aggrieved by an assessment made by the property valuation administrator.

The cost of such notice shall be paid by the fiscal court of the county. Such notice shall also be posted at the courthouse door. Failure to publish or post notices when the inspection period is at the regular time as provided in this section shall not invalidate assessments made by the property valuation administrator and recorded on the tax roll prior to the inspection period.

Section 11. KRS 133.120 is amended to read as follows:

(1) Any taxpayer aggrieved by an assessment *on real property* made by the property valuation administrator may appeal to the board of assessment appeals. The taxpayer shall appeal his assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed and stating to the county clerk the taxpayer's opinion of the fair cash value of the property within the twelve-day period in which the inspection is held. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the revenue cabinet, county judge/executive, mayor of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer

notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase. Any *real* property owner who has listed his property with the property valuation administrator at its fair cash value, likewise may ask the county board of assessment appeals to review the assessments of *real* properties he believes to be assessed at less than fair cash value, providing, he specifies, in writing the individual properties for which the review is sought and factual information upon which his request is based; such as, comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(2) The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The board shall report to the property valuation administrator any *real* property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(3) The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(4) The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(5) No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky board of tax appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(6) Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky board of tax appeals.

(7) It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

Section 12. KRS 133.125 is amended to read as follows:

(1) The county clerk, or an authorized deputy, shall act as clerk of the board of assessment appeals; and where additional board panels are appointed, as provided by law, one (1) authorized deputy shall act as clerk for each panel. An accurate record of the proceedings and orders of the board and of each of its authorized panels shall be kept and shall show the name of the owner of the property, the description, the type of property, the amount of the assessment the property valuation administrator placed on the property, and the amount of change made in the assessment by the board. A copy certified by the chairman of the board and attested by the county clerk shall be filed by the clerk with the property valuation administrator and with the revenue cabinet within five (5) days after the adjournment of the board.

(2) After receipt of the clerk's certification of the action of the board of assessment appeals, the property valuation administrator shall complete his rolls by adding to them all listings and assessments which he may have made after the rolls were open for inspection as provided in KRS 133.045 and making all adjustments ordered by the board, and he shall turn the rolls over to the clerk within ten (10) days after the board adjourns. Whereupon the clerk shall make a recapitulation of the assessment by taxing districts and types of property and shall submit such recapitulation to the revenue cabinet not later than June *15* [~~20~~] unless the time is extended by the cabinet.

(3) The county clerk shall certify to the county judge/executive the number of days during which the board was in session, and the court shall enter this fact of record along with the amount due the board members

for their services. On a presentation of a copy of the order, the finance and administration cabinet shall draw a warrant on the state treasurer in favor of the board members and clerk for the amount due for their services.

(4) The county clerk and any authorized deputies serving as clerk of the board or a panel thereof shall be allowed the same compensation per day for their services as is allowed to members of the board of their county, and they shall be paid in the same manner as members of the board are paid. The county clerk and his authorized deputies shall be allowed compensation for completing and filing the record of the board and for preparing the recapitulation in the same manner as allowed for their services while acting as clerk of the board or clerk of a panel of the board.

(5) The county clerk shall not permit property valuation assessments listed on the property tax roll to be amended after the recapitulation is submitted to the revenue cabinet.

HB 765, AN ACT relating to boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.160 is amended to read as follows:

(1) Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected from the divisions and in the manner prescribed by KRS 160.210(5), to be known as the "board of education of ......, Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vice-chairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.

(2) No board of education shall participate in any financing of school buildings, school improvements, appurtenances thereto, or furnishing and equipment without:

(a) First establishing the cost of the project in advance of such financing, based on the receipt of advertised, public, competitive bids for such project, in accordance with KRS Chapter 424; and

(b) Establishing the cost of such financing in advance of the sale of any bonds, certificates of participation in any leases, or other evidences of financial commitments issued by or on behalf of such board. Any such bonds, leases, participations, or other financial arrangements shall not involve a final commitment of the board until the purchaser or lender involved shall have been determined by public advertising in accordance with KRS Chapter 424.

(3) No board of education shall make a mortgage, lien, or other encumbrance upon any school building owned by the board, or transfer title to any such school building as part of any financing arrangement, without the specific approval of the state department of education, and without such transaction being entered into pursuant to a detailed plan or procedure specifically authorized by Kentucky statute.

(4) Without the approval of the state department of education, no board may lease, as lessee, a building or public facility that has been or is to be financed at the request of the board or on its behalf through the issuance of bonds by another public body or by a nonprofit corporation serving as an agency and instrumentality of the board, or by a leasing corporation. Any such lease, participation, or other financial arrangement shall not involve a final commitment of the board unless and until the purchaser or lender involved in same shall have been determined by public advertising in accordance with KRS Chapter 424. No such transaction shall be entered into by the board except upon the basis of public advertising and competitive bidding in accordance with KRS Chapter 424.

HB 789, AN ACT relating to taxpayer appeals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 133.120 is amended to read as follows:

(1) Any taxpayer aggrieved by an assessment made by the property valuation administrator, *regardless of the ownership of the assessed property,* may appeal to the board of assessment appeals. The taxpayer shall appeal *the* [~~his~~] assessment by filing in person or sending a letter or other written petition stating the reasons for appeal, identifying the property for which the appeal is filed and stating to the county clerk the taxpayer's opinion of the fair cash value of the property within the twelve-day period in which the inspection is held. The board of assessment appeals may review and change any assessment made by the property valuation administrator upon recommendation of the revenue cabinet, county judge/executive, mayor of any city using the county assessment or the superintendent of any school district in which the property is located, provided, such recommendation is made to the board in writing specifying the individual properties recommended for review. If the board of assessment appeals determines that any such assessment should be increased, then it shall give the taxpayer notice in the manner required by subsection (4) of KRS 132.450, specifying a date when the board will hear the taxpayer, if he so desires, in protest of such increase.

(2) Any property owner who has listed his property with the property valuation administrator at its fair cash value *and who does not elect to exercise the right of appeal as provided for in subsection (1) of this section,* [~~likewise~~] may ask the county board of assessment appeals to review the assessments of properties he believes to be assessed at less than fair cash value, providing, he specifies, in writing the individual properties for which the review is sought and factual information upon which his request is based; such as, comparable sales or cost data. Nothing in this section shall be construed as granting any property owner the right to request a blanket review of properties or the board the power to conduct such a review.

(3)[~~(2)~~] The board of assessment appeals shall hold a public hearing for each individual taxpayer appeal in protest of the assessment by the property valuation administrator filed in accordance with the provisions of subsection (1) of this section, and after hearing all the evidence, shall fix the assessment of the property at its fair cash value. The board shall report to the property valuation administrator any property omitted from the tax roll. The property valuation administrator shall assess such property and immediately give notice to the taxpayer in the manner required by KRS 132.450(4), specifying a date when the board of assessment appeals will hear the taxpayer, if he so desires, in protest of the action of the property valuation administrator.

(4)[~~(3)~~] The board of assessment appeals shall have power to issue subpoenas, compel the attendance of witnesses, and adopt rules and regulations concerning the conduct of its business. Any member of the board shall have power to administer oaths to any witness in proceedings before the board.

(5)[~~(4)~~] The powers of the board of assessment appeals shall be limited to those specifically granted by this section.

(6)[~~(5)~~] No appeal under this section shall delay the collection or payment of any taxes based upon the assessment in controversy. The taxpayer shall pay all state, county and district taxes due on the valuation which he claims as true value and stated in the petition of appeal filed in accordance with the provisions of subsection (1) of this section. When the valuation is finally determined upon appeal, the court or the Kentucky board of tax appeals shall certify the valuation to the county clerk and the taxpayer shall be billed for any additional tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to such tax bill.

(7)[~~(6)~~] Any member of the county board of assessment appeals may be required to give evidence in support of the board's findings in any appeal from its actions to the Kentucky board of tax appeals.

(8)[~~(7)~~] It shall be the duty of the county attorney to represent the interest of the state and county in all hearings before the board of assessment appeals and on all appeals prosecuted from its decision. In the event the county attorney is unable to represent the state and county, he or the fiscal court shall arrange for substitute representation.

Section 2. KRS 131.340 is amended to read as follows:

(1) The Kentucky board of tax appeals is hereby vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of any agency of state or county government affecting

revenue and taxation.

(2) Any party, including the attorney general, on behalf of the Commonwealth, aggrieved by any ruling, order or determination of any state or county agency charged with the administration of any taxing or licensing measure, *and all persons entitled to execute an appeal to the county board of assessment appeals pursuant to KRS 133.120(1),* may prosecute an appeal to the board by filing a complaint or petition of appeal before the board within thirty (30) days from the receipt by such aggrieved party of the agency's ruling, order, or determination.

(3) In the event the revenue cabinet is aggrieved by the decision of any county board of assessment appeals on an assessment recommended by the cabinet and prosecutes an appeal to the Kentucky board of tax appeals as authorized herein, the secretary of revenue shall, within twenty (20) days, certify in writing to the Kentucky board of tax appeals the assessment recommended.

(4) The Kentucky board of tax appeals shall immediately forward copies of the certification to the parties to the appeal. Such assessed value shall be prima facie evidence of the value at which the property should be assessed.

Section 3. KRS 133.170 is amended to read as follows:

(1) When the revenue cabinet has completed its equalization of the assessment of the property in any county, it shall certify its action to the county judge/executive, with a copy of the certification for the county clerk, to be laid before the fiscal court of the county.

(2) If the fiscal court deems it proper to ask for a review of the aggregate equalization of any class or subclass of property, it shall direct the county attorney to prosecute an appeal of the aggregate increase to the Kentucky board of tax appeals within ten (10) days from the date of the certification.

(3) Within ten (10) days from the date that the cabinet's aggregate equalization of any or all classes or subclasses of property becomes final by failure of the fiscal court to prosecute an appeal or by order of the Kentucky board of tax appeals or the courts, the fiscal court shall cause to be published, at least one (1) time, in the newspaper having the largest circulation within the county, a public notice of the cabinet's action.

(4) Within ten (10) days from the date of the publication of the notice required in subsection (3) of this section, any individual taxpayer whose property assessment is increased above its fair cash value by the equalization action may file with the county clerk an application for exoneration of his property assessment from the increase. The application shall be filed in duplicate and shall include the name and address of the person in whose name the property is assessed; the assessment of the property before the increase; the description and location of the property including the description shown on the tax roll; the property owner's reason for appeal and all other pertinent facts having a bearing upon its value. The county clerk shall forward one (1) copy. of each application for exoneration to the revenue cabinet and shall exclude the amount of the equalization increase from the assessment in the preparation of the property tax bill for each property for which an application for exoneration has been filed.

(5) The county judge/executive shall reconvene the board of supervisors immediately following the close of the period for filing applications for exoneration from the increase. The board shall schedule and conduct hearings on all applications in the manner prescribed for hearing appeals by KRS 133.120; however, the board shall not have authority to reduce any assessment to an amount less than that listed for the property at the time of adjournment of the regular board session.

(6) The county clerk shall act as clerk of the reconvened board and shall keep an accurate record of the proceedings in the same manner as provided by KRS 133.125. Within five (5) days of the adjournment of the reconvened board, he shall notify each property owner in writing of the final action of the board with relation to the equalization increase and shall forward a copy of the proceedings certified by the chairman of the board and attested by him to the revenue cabinet and to the other taxing districts participating in the tax.

(7) Any taxpayer whose application has been denied, in whole or in part, may appeal to the Kentucky board of tax appeals as provided in KRS 131.340, and appeals thereafter may be taken to the courts as provided in KRS 131.370.

(8) The provisions of KRS 133.120*(6)*[~~(5)~~] shall apply to the payment of taxes upon any property assessment for which an application for exoneration has been filed.

(9) The provisions of subsections (4), (5), (6), (7), and (8) of this section shall only apply to appeals growing out of equalization action by the revenue cabinet under the provisions of KRS 133.150.

HB 870. AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.340 is amended to read as follows:

(1) Except as provided in KRS 139.470 and 139.480, every retailer engaged in business in this state and making sales of tangible personal property for storage, use or other consumption in this state, shall, at the time of making the sales, or, if the storage, use or other consumption of the tangible personal property is not then taxable hereunder, at the time the storage, use or other consumption becomes taxable, collect the tax levied under KRS 139.310 from the purchaser and give to the purchaser a receipt therefor in the manner and form prescribed by the cabinet.

(2) "Retailer engaged in business in this state" as used in this chapter includes any of the following:

(a) Any retailer maintaining, occupying, or using, permanently or temporarily, directly or indirectly, or through a subsidiary, or agent, by whatever name called, an office, place of distribution, sales or sample room or place, warehouse or storage place or other place of business;

(b) Any retailer having any representative, agent, salesman, canvasser or solicitor operating in this state under the authority of the retailer or its subsidiary for the purpose of selling, delivering, or the taking of orders for any tangible personal property.

(c) Any retailer soliciting orders for tangible personal property from residents of this state on a continuous, regular, or systematic basis in which the solicitation of the order, placement of the order by the customer or the payment for the order utilizes the services of any financial institution, telecommunication system, radio or television station, cable television service, print media or other facility or service located in this state.

HB 937. AN ACT relating to coal severance and processing taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 143 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of administering KRS 143.010(6)(e) and (f), the cabinet shall provide to all registered taxpayers, who sell severed or processed coal that will subsequently be claimed as a deduction for purchased coal, certificates or other similar forms designed for the purpose of permitting the processor of the coal to verify his deduction for purchased coal. If coal which has been severed outside this state is purchased by a processor, he shall acquire a statement in such form as the cabinet may prescribe from the person severing the coal outside this state.

(2) A deduction for purchased coal shall not be allowed for purchases of coal originating from persons severing coal in this state who are not registered to report and pay the tax due under this chapter or for purchases of coal which cannot be traced to a person who severed the coal outside this state.

Section 2. KRS 143.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Cabinet" means "revenue cabinet."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth in this state.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into whereby persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest is the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in section 613 (c) of the internal revenue code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense (whether or not by common carrier) incurred in transporting coal shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the *registered* taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value is the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the *registered* taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer must compute his tax liability and remit the tax due to the cabinet. The reporting period shall be monthly. However, the cabinet may, under certain conditions, authorize a quarterly reporting period.

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading for shipment. "Processing" does not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control exists if a contract or lease, either written or oral, is entered into whereby one party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive royalty interest. In the case of related parties, the cabinet may apportion or allocate the receipts between or among such persons, organizations, or businesses if it determines that such apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter is synonymous with the economic interest ownership required by internal revenue code section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) Transportation expense shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock or customer provided that the transaction is at arm's length.

(b) The cost incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock, or customer.

(c) The cost incurred in transporting the coal for purpose of marketing.

(d) In no case shall transportation expenses include the cost of acquisition, improvements, or maintenance of real property; the cost of loading or unloading facilities.

(12) "Registered taxpayer" as used in subsection (6)(e) and (f) of this section shall mean a "taxpayer" as defined in subsection (5) of this section who holds a valid coal tax certificate of registration required under KRS 143.030(1) and the certificate of registration was valid for the period in which his coal was sold.

Section 3. KRS 143.990 is amended to read as follows:

Any taxpayer who fails to file required returns or remit the tax due under this chapter *or who falsifies or alters a certificate or other form required under Section 1 of this Act* shall be guilty of a misdemeanor and upon conviction therefor shall be fined an amount not to exceed one thousand dollars or imprisoned for a period not to exceed six (6) months, or both.

The Committee on Appropriations and Revenue reported **HB 455** with Committee Amendment attached thereto, and **HB 597** with expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 760** and **HB 762** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 760. AN ACT relating to the withholding of federal income tax from the salaries of public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.470 is amended to read as follows:

(1) There is hereby established a special fund to be known as the contribution fund. Such fund shall consist of and there shall be deposited therein:

(a) All contributions, interest, and penalties under KRS 61.450 and 61.460;

(b) All moneys appropriated or otherwise contributed thereto, *including federal income tax withheld from state employes;*

(c) Any property or securities and earnings thereof acquired through the use of moneys belonging to the fund;

(d) Interest earned upon any moneys in the fund, and

(e) All sums recovered from the bond of the custodian or otherwise for losses sustained by the fund, and all other moneys received for the fund from any other source. All moneys in the fund shall be mingled and undivided. Subject to the provisions of KRS 61.410 to 61.500, the state agency is vested with full power, authority and jurisdiction over the fund, including all moneys and property or securities belonging thereto, and may perform any and all acts whether or not specifically designated, which are necessary to the administration thereof and are consistent with the provisions of KRS 61.410 to 61.500.

(2) The contribution fund shall be a trust and agency fund which shall not lapse and shall be held separate and apart from any other funds or moneys of the state and shall be used and administered exclusively for the purposes of KRS 61.410 to 61.500. Withdrawals from such fund shall be made for, and solely for:

(a) Payment of amounts required to be paid to the secretary of the treasury pursuant to an agreement entered into under KRS 61.430 *and as required by federal law*;

(b) Payment of refunds provided for in subsection (3) of KRS 61.450;

(c) Refunds of overpayments, not otherwise adjustable, made by a political subdivision; and

(d) For payment of administrative costs for the administration of KRS 61.410 to 61.500 to the extent of the interest earned on investments of the contribution fund.

(3) From the contribution fund the custodian of the fund shall pay to the secretary of the treasury such amounts at such time or times as may be directed by the state agency in accordance with any agreement entered into under KRS 61.430.

(4) At the end of each fiscal year, the state agency shall make an estimate of the necessary operating costs of the state agency for the next fiscal year, including a contingent liability fund. After approval of this amount needed for necessary costs and contingent liability fund by the secretary of finance and administration, the realized investment earnings of the contribution fund available at the end of any fiscal year shall be reduced to this approved amount, and any excess is hereby authorized for transfer to the credit of the general fund.

(5) The treasurer of the state shall be ex-officio treasurer and custodian of the contribution fund and shall administer such fund in accordance with the provisions of KRS 61.410 to 61.500 and the directions of the state agency, and shall pay all warrants drawn upon the fund in accordance with the provisions of this section and with such regulations as the state agency may prescribe pursuant thereto.

HB 762. AN ACT relating to coal severance and processing taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 143.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Cabinet" means "revenue cabinet."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state.

(3) "Severed," "severing," or "severance" means the physical removal of coal from the earth in this state.

(4) "Ton" means a short ton of 2,000 pounds. The number of tons shall be determined at the first point at which the coal is weighed.

(5) "Taxpayer" shall mean and include any individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal in this state. In instances where contracts, either oral or written, are entered into whereby persons, organizations, or businesses are engaged to mine or process the coal but do not obtain title to or do not have an economic interest therein, the party who owns the coal or has an economic interest is the taxpayer.

(6) "Gross value" is synonymous with gross income from property as defined in section 613 (c) of the internal revenue code and regulations 1.613-3 and 1.613-4 in effect on December 31, 1977, with the exception that in all instances transportation expense (whether or not by common carrier) incurred in transporting coal shall not be considered as gross income from the property. Gross value is to be reported as follows:

(a) For coal severed and/or processed and sold during a reporting period, gross value is the amount received or receivable by the taxpayer.

(b) For coal severed and/or processed, but not sold during a reporting period, gross value shall be determined as follows:

1. If the coal is to be sold under the terms of an existing contract, the contract price shall be used in computing gross value.

2. If there is no existing contract, the fair market value for that grade and quality of coal shall be used in computing gross value.

(c) In a transaction involving related parties, gross value shall not be less than the fair market value for coal of similar grade and quality.

(d) In the absence of a sale, gross value shall be the fair market value for coal of similar grade and quality.

(e) If severed coal is purchased for the purpose of processing and resale, the gross value is the amount received or receivable during the reporting period reduced by the amount paid or payable to the taxpayer actually severing the coal.

(f) If severed coal is purchased for the purpose of processing and consumption, the gross value is the fair market value of processed coal of similar grade and quality reduced by the amount paid or payable to the taxpayer actually severing the coal.

(g) In all instances, the gross value shall not be reduced by any taxes including the tax levied by KRS 143.020, royalties, sales commissions, or any other expense.

(7) "Reporting period" means the period for which each taxpayer must compute his tax liability and remit the tax due to the cabinet. The reporting period shall be monthly *unless*[~~. However,~~] the cabinet *by administrative regulation requires or permits reporting periods other than on a monthly basis* [~~may, under certain conditions, authorize a quarterly reporting period~~].

(8) "Processing" includes cleaning, breaking, sizing, dust allaying, treating to prevent freezing, or loading for shipment. "Processing" does not include:

(a) Acts performed by a final consumer who is not a related party to the person who severed and/or processed the coal if such acts are performed only at the site where the coal is consumed for purposes of generating electricity; or

(b) The act of unloading or loading for shipment coal that has not been severed, cleaned, broken, sized or otherwise treated in Kentucky.

(9) "Related party" means two (2) or more persons, organizations, or businesses owned or controlled directly or indirectly by the same interest. Control exists if a contract or lease, either written or oral, is entered into whereby one party mines or processes coal owned or held by another party and the owner or lessor participates in the mining, processing, or marketing of the coal or receives any value other than an

arm's length passive royalty interest. In the case of related parties, the cabinet may apportion or allocate the receipts between or among such persons, organizations, or businesses if it determines that such apportionment or allocation is necessary in order to more clearly reflect gross value.

(10) "Economic interest" for the purposes of this chapter is synonymous with the economic interest ownership required by internal revenue code section 611 in effect on December 31, 1977, entitling the taxpayer to a depletion deduction for income tax purposes with the exception that a party who only receives an arm's length royalty shall not be considered as having an economic interest.

(11) Transportation expense shall mean:

(a) The amount paid by a taxpayer to a third party for transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock or customer provided that the transaction is at arm's length.

(b) The cost incurred by a taxpayer using his own facilities in transporting coal from the mine mouth or pit to a processing plant, tipple, loading dock, or customer.

(c) The cost incurred in transporting the coal for purpose of marketing.

(d) In no case shall transportation expenses include the cost of acquisition, improvements, or maintenance of real property; the cost of loading or unloading facilities.

Section 2. KRS 143.030 is amended to read as follows:

(1) Every individual, partnership, joint venture, association, or corporation engaged in severing and/or processing coal shall, prior to July 1, 1978, or prior to severing and/or processing coal in this Commonwealth, file an application for a certificate of registration in such form as the cabinet may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed and/or processed, the taxpayer severing and/or processing such coal shall file with the cabinet a tax return in such form as the cabinet may require and remit the amount of the tax due, *provided, however, that the revenue cabinet may, by administrative regulation, require taxpayers to file returns and remit taxes prior to the twentieth day but not before the tenth day following the reporting period.* A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any taxpayer fails to comply with any provisions of this chapter, or any rule or regulation of the cabinet relating thereto, the cabinet may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any taxpayer, including any officer of a corporation, who conducts a coal severing and/or processing operation in this state without obtaining a certificate of registration or after a certificate of registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

The Committee on Counties and Special Districts reported **HB 290** with Committee Amendment attached thereto. **HB 771**, **HB 820**, **HB 857**, **HB 902**, and **HB 906** with Committee Amendments attached thereto, and **HB 935** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 290, AN ACT relating to the compensation of sheriffs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.092 is amended to read as follows:

Compensation of sheriffs and other law enforcement officers or agencies for attending court shall be as follows:

(1) Compensation shall be provided only for the actual time for which the sheriff or other officer is ordered to be physically present in the courtroom or is ordered to be physically present to discharge a duty ordered by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate.

(2) Compensation shall not be provided for more than one sheriff or other officer per courtroom unless the need for additional personnel is certified in writing by the chief circuit judge, chief district judge, or judge of the court of appeals, as appropriate and the utilization of additional personnel is approved by the chief justice, or his designee. In the event of an emergency of such nature precluding contacting the chief justice or his designee, the chief circuit judge, chief district judge, or judge of the court of appeals may authorize such assignment of additional personnel for a period not to exceed twenty-four (24) hours.

(3) Where a single sheriff or other law enforcement officer serves more than one court or courtroom during a single day he shall be paid as if he had served only one courtroom during that day. Dual compensation for service during a single day shall not be permitted.

(4) Time, for compensation purposes, shall be computed as the actual time spent in the courtroom pursuant to court direction or order and the actual time spent in other service to the court as directed or ordered by the appropriate judge.

(5) Time spent in court service by a sheriff or other law enforcement officer shall be certified by the judge of the court which the officer attended and by the chief judge of the circuit court, if the service was to the circuit court, or by the chief judge of the district court, if the service was to the district court.

(6) Compensation shall be at the following rates:

(a) For the first three (3) hours of service in a single day, ten dollars ($10).

(b) For service beyond three (3) hours, such additional service shall be compensated at the *rate of six dollars ($6) per hour* [~~current federal minimum wage~~]. Compensation for such service shall be pro-rated for the actual number of minutes service within a given hour.

(7) The sheriff shall receive five dollars ($5) from each court cost collected pursuant to KRS 23A.205, 23A.215, 24A.175 and 24A.180 to help defray the cost of providing security services and related activities to the court. The moneys received by the sheriff under this subsection are authorized official expenses to be considered operating expenses of the sheriff's office and shall not be considered as part of his compensation.

The Committee Amendment No. 1 to **HB 290** is as follows:

Amend printed copy of **HB 290** on page 2, line 19, by bracketing and striking through the words "three (3) hours" and by inserting after the word "first" the word "*hour*"; and

on page 2, line 21, by bracketing and striking through the words "three (3) hours" and by inserting after the word "beyond" the words "*the first hour*"; and

on page 3, line 7, by adding thereafter the following:

"Section 2. KRS 24A.175 is amended to read as follows:

(1) Court costs for a criminal case in the district court shall be:

(a) For an offense for which prepayment is permitted under KRS 189.394, 431.451, or 431.452 and for which prepayment has been made prior to trial as required by law . . . . *$42.50* [~~$42.00~~]

(b) For an offense for which prepayment is not permitted or has not been made . . . . *$47.50* [~~$47.00~~]

(2) There shall be no court costs for a parking citation when:

(a) The fine is paid to the clerk before the trial date in the same manner as provided for speeding citations under KRS 189.394(3); and

(b) The citation does not involve parking in a fire lane or blocking the traveled portion of the highway.

(3) Additional costs shall be assessed in district court criminal matters as follows:

(a) Preparing an attestation	$ .50
(b) Preparing a certification	1.00
(c) Preparing a copy of a document (per page)	.25

(4) Taxation of costs against a defendant, upon conviction, including persons sentenced to a drivers' improvement program as provided under KRS 186.574, shall be mandatory and shall not be probated or suspended.

(5) The circuit clerk shall, at the time fines and costs are paid over to the state, pay five dollars ($5.00) from each court cost collected pursuant to subsection (1) of this section to the county treasurer for use by the fiscal court for the sole purpose of defraying the costs of operation of the county jail and the transportation of prisoners and shall include among his reports to the administrative office of the courts the amounts paid to the county.

(6) The circuit clerk shall, at the time fines and costs are paid over to the state, pay ten dollars ($10.00) from each court cost collected pursuant to subsection (1) of this section to the state treasury for the benefit and use of the Kentucky local correctional facilities construction authority pursuant to KRS 441.625 to 441.695.

(7) *From each court cost collected pursuant to subsection (1) of this section, the circuit clerk shall pay monthly five dollars ($5) to the sheriff and fifty cents (50) to the state treasurer* [~~The circuit clerk shall monthly pay five dollars ($5) from each court cost collected pursuant to subsection (1) of this section to the sheriff~~] for use by the sheriff for providing security services and related activities to the court as provided for in KRS 64.092. The clerk shall include among his reports to the administrative office of the courts the amounts paid to the sheriff *and to the treasury.*".

HB 771, AN ACT relating to liability insurance for local governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.150 is amended to read as follows:

(1) A county or city or urban-county government *and any board, commission, agency or authority of a county, city or urban-county government* may expend funds necessary to insure any of its employes, [~~and~~] officials *and property* against any liability *or property damage* arising out of an act or omission committed in the scope and course of performing legal duties.

(2) A county fee officer and his deputies and assistants may be insured pursuant to subsection (1) of this section, or the officer may expend excess fees to insure himself and his deputies and assistants against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(3) Any parties eligible to expend funds for insurance pursuant to this section may associate, *pursuant to KRS 65.210 to 65.300,* for the purpose of insuring themselves *against any liability or property damage.*

(4) An association of governmental units formed for the purpose of providing insurance to the participating members may act on behalf of and with the approval of the participating governmental units to borrow money and issue revenue bonds to fund the costs of providing the insurance. Revenue bonds issued pursuant to the authority granted in this subsection shall be issued in accordance with KRS 65.270.

HB 820, AN ACT relating to animal control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

(1) Animal control officers of a county containing a city of the first class may make arrests or issue citations, upon viewing the offense or in obedience to a warrant, for the following offenses only:

(a) Violations of KRS Chapter 258;

(b) Violations of laws relating to cruelty to animals;

(c) Ordinances of the county containing a city of the first class relating to animal control; and

(d) Ordinances of a city of the first class relating to animal control.

(2) Animal control officers of a county containing a city of the first class shall not:

(a) Possess the power of arrest for any offense other than one designated in subsection (1) of this section;

(b) Utilize blue or red lights, or a combination thereof, or a siren upon either publicly owned or privately owned vehicles utilized by them for the purpose of animal control; or

(c) Carry concealed deadly weapons.

HB 857, AN ACT relating to water districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 74 IS CREATED TO READ AS FOLLOWS:

(1) A water district organized under this chapter may elect to finance all or part of an expansion of its system by adding a temporary surcharge to the rates charged for service. All funds so collected shall be set apart in a reserve trust account, shall be invested in securities issued or guaranteed by the United States government until they are needed, and shall be expended, together with any interest or other earnings, solely for the expansions or extensions specified in the plan described under subsection (2) of this section. If construction has not begun five (5) years after the surcharge is implemented, all funds so collected shall be returned to the water district customers, together with interest and earnings. This section shall constitute an additional or alternate method of financing expanded facilities, and shall not repeal or reduce any existing rights or duties of a water district.

(2) A water district which elects to establish a reserve trust account under this section shall develop a plan for the expansion project or projects to be financed from the reserve, which shall include the design and estimated cost of each element of the expansion, a time schedule for each step in the project, the proposed financing, and the amount of surcharge to water district rates needed to collect the amounts to be financed out of district reserves. After approval by the board of commissioners, the plan and proposed rates shall be submitted to the public service commission. The comission, after a public hearing, shall issue an order approving, modifying or rejecting the plan. If a plan is approved, the commission shall establish a reasonable surcharge to implement the plan to be collected for a period no longer than five (5) years. The commission shall require the district to maintain its records in such a manner as will enable it, or the commission or its customers, to determine the amounts to be refunded and to whom they are due in the event that surcharge amounts shall be refunded.

(3) The water district may, with the approval of the commission, amend its plan to reflect subsequent developments or new information, but the changes shall not violate the intent of the initial plan.

(4) The provisions of this section also shall apply to water associations organized under KRS Chapter 273.

HB 902, AN ACT relating to county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any statute to the contrary, the fiscal court of any county in which there are no incorporated areas shall receive any appropriate state funds a city is eligible to receive in addition to any state funds a county is eligible to receive. Funds received by a fiscal court pursuant to this section in any county in which there are no incorporated areas, shall be used to perform proper and necessary governmental functions statutorily authorized or required involving the public interests of the citizens of the county.

SECTION 2. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court of any county in which there are no incorporated areas shall receive any funds arising from the imposition of taxes provided by KRS 138.220, 138.565, 138.660(1) and (2) and 234.320 that are designated for allocation to any unincorporated urban place located within the county pursuant to KRS 177.366 and 177.369, in addition to any funds the county receives pursuant to KRS 177.320.

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

The fiscal court in any county in which there are no incorporated areas shall be eligible to receive urban libraries funds pursuant to KRS 173.860 and 173.870.

Section 4. KRS 81.015 is amended to read as follows:

(1) The Fairdale area of Jefferson County is an "unincorporated urban place" within the meaning of KRS 177.366 and 177.369. The metes and bounds of the Fairdale area are as follows: Beginning at a point approximately 1,000 feet west of Smith Road on the Jefferson - Bullitt County line; running thence northwardly along a line behind improvements facing Smith Road, Top Hill Road, and Jefferson Hill Road 12,000 feet more or less to Lonesome Hollow Road; thence northwestwardly with Lonesome Hollow road 6,000 feet more or less to Blevins Gap Road; thence northeastwardly along Blevins Gap Road 2,000 feet more or less to Greyling Drive; thence northeastwardly along Greyling Drive 5,500 feet more or less to Manslick Road; thence northwardly along Manslick Road 2,000 feet more or less to the southeast right-of-way line of the Louisville, Henderson & Saint Louis Railroad; thence northeastwardly along said railroad 16,250 feet more or less to the west right-of-way line of the Louisville & Nashville Railroad; thence southwardly along the west right-of-way line of the Louisville & Nashville Railroad 4,000 feet more or less to the Outer Loop; thence eastwardly along the Outer Loop 10,250 feet more or less to Interstate 65; thence southwardly along Interstate 65 18,500 feet more or less to the Bullitt - Jefferson County line; thence westwardly with said county line 28,000 feet more or less to the beginning.

(2) The Parkers Lake area of McCreary County is an "unincorporated urban place" within the meaning of KRS 177.366 and 177.369. The metes and bounds of the Parkers Lake area are as follows: Beginning point at U.S. 27; thence running westwardly to the South Fork River, of Cumberland; thence southeastwardly along the South Fork River, of Cumberland, to the end of Black Ridge Road; thence northeastwardly crossing U.S. 27, to Hwy. 90 and Vanover Ridge Road; thence northwestwardly to the beginning.

(3) The Whitley City area of McCreary County is an "unincorporated urban place" within the meaning of KRS 177.366 and 177.369. The metes and bounds of the Whitley City area are as follows: Beginning at U.S. 27 at the U.S. Forest Service Ranger Station; thence west on Hwy 1651 to the South Fork River, of Cumberland, Alum Ford; thence south on the South Fork River, of Cumberland to Lick Creek; thence southeastwardly on Lick Creek Road crossing Hwy 1651; thence southeastwardly to Laurel Creek Bridge; thence westwardly on Hwy 478; thence southwestwardly to Jenny's Branch; thence southwestwardly to Hatfield Subdivision Road; thence westwardly on Hatfield Subdivision Road; thence northwestwardly to the beginning.

(4) The Smithtown area of McCreary County is an "unincorporated urban place" within the meaning of KRS 177.366 and 177.369. The metes and bounds of the Smithtown area are as follows: Beginning at the intersection of Hwy 92 and 1363; thence southeastwardly on the South Fork River, of Cumberland; thence east to Lick Creek Falls Road; thence southeastwardly to Hwy 701; thence westwardly to 92; thence westwardly on 92; thence southwestwardly to Barthell; thence north parallel of a creek to Yamacraw, to the beginning point.

(5) The Stearns area of McCreary County is an "unincorporated urban place" within the meaning of KRS 177.366 and 177.369. The metes and bounds of the Stearns area are as follows: Beginning at U.S. 27; thence eastwardly to Laurel Bridge; thence southwestwardly on Laurel Creek to McCreary County Reservoir; thence northwestwardly on East Apple Tree to Hwy 92; thence westwardly on Hwy 92 to Hwy 701, to the beginning point.

(6) The Pine Knot area of McCreary County is an "unincorporated urban place" within the meaning of KRS 177.366 and 177.369. The metes and bounds of the Pine Knot area are as follows: Beginning at U.S. 27 and Cal Hill Road to the Neal Road; thence northwardly on the Neal Road to Hwy 92; thence eastwardly on Hwy 92 to the West Road; thence northeastwardly on the West Road to the Smithy Road; thence southeastwardly on Smithy Road to Bethel Road; thence westwardly on the Bethel Road to Jackson Knob Road; thence northwestwardly to Meadows Grove Road; thence southwestwardly to the intersection of Hwy 27 and the Job Corps Road; thence westwardly on the Job Corps Road to Hwy 92; thence southwestwardly to Mud Cut Road; thence circling on Mud Cut Road to Hwy 92; thence eastwardly to Hwy 27, to the beginning point.

Section 5. KRS 177.365 is amended to read as follows:

(1) On and after July 1, 1980, seven and seven-tenths percent (7.7%) of all amounts received from the imposition of the taxes provided for in KRS 138.220, 138.565, 138.660(1) and (2) and 234.320 shall be set aside by the finance and administration cabinet for the construction, reconstruction and maintenance of urban roads and streets and for no other purpose.

(2) As used in this section unless the context requires otherwise "construction," "reconstruction," and "maintenance" mean the supervising, inspecting, actual building, and all expenses incidental to the construction, reconstruction, or maintenance of a road or street, including planning, locating, surveying, and mapping or preparing roadway plans, acquisition of rights-of-way, relocation of utilities, lighting and the elimination of other hazards such as roadway grade crossings, and all other items defined in the department of highways, design, operations, and construction manuals.

(3) "Urban roads" mean all public ways lying within the limits of the unincorporated urban place *as defined in KRS 81.015, and* as described by the bureau of census tracts.

(4) "Streets" mean all public ways which have been designated by the incorporated city as being city streets and said streets lying within the boundaries of an incorporated city.

Section 6. KRS 177.366 is amended to read as follows:

(1) On and after July 1, 1980, the [~~department of~~] finance *and administration cabinet* shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in said incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here means an area *as defined in KRS 81.015, and any area* outside of incorporated cities which area has a population of 2,500 or more as shown by the most recent decennial census of the United States bureau of the census, and all populations shall be determined by the most recent decennial census ofthe United States.

(2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the municipal aid program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the [~~department of~~] finance *and administration cabinet* with documentation from the United States bureau of the census showing the population of the newly incorporated area as it existed at the time of the last decennial census.

(3) In the event the newly incorporated area cannot obtain a population count from the bureau of the census, it shall not be eligible to participate in the municipal aid program until the next decennial census.

(4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.

(5) It shall be the responsibility of the incorporated city to provide the [~~department of~~] finance *and*

administration cabinet with documentation from the United States bureau of the census showing the population for the annexed area as it existed at the time of the last decennial census.

(6) In the event the incorporated area cannot obtain a population count from the bureau of the census, the annexed area's population will not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas will be eligible to receive work through this program.

(7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the [~~department of~~] revenue *cabinet* and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the [~~department of~~] revenue *cabinet.*

Section 7. KRS 177.369 is amended to read as follows:

(1) On and after the fiscal year beginning July 1, 1980 and each fiscal year thereafter, the [~~department of~~] finance *and administration cabinet* shall pay to each incorporated city and county containing an unincorporated urban place its pro rata share of any funds appropriated and any unexpended balance of funds appropriated for construction, reconstruction, and maintenance of urban roads and streets. During each fiscal year, the [~~department of~~] finance *and administration cabinet* shall make quarterly payments to each such city and county of the funds set aside and allocated pursuant to KRS 177.365 and 177.366.

(2) The expenditure of any money received by the city or county pursuant to the provisions of subsection (1) of this section shall be made solely for the purpose of construction, reconstruction, and maintenance of urban roads and streets set forth in KRS 177.365.

(3) Any city or county which has received any money pursuant to the provisions of subsection (1) of this section shall retain all records of the expenditure of such money for a period of five (5) years and said records shall be subject to audit by the [~~department of~~] finance *and administration cabinet* for said period of time in order to determine the proper expenditure of said money for the purposes required by KRS 177.365.

Section 8. KRS 173.850 is amended to read as follows:

Unless the context otherwise requires:

(1) "State librarian" means the state librarian as defined in KRS 171.130;

(2) "Governmental unit" means any county or city or urban-county government or other agency or instrumentality which is authorized by Kentucky Revised Statutes to levy and collect taxes for public purposes; and

(3) "Qualifying library" means any free public library supported in whole or in part with money derived from taxation, and governed by a board as provided for in KRS 173.040, 173.340, 173.500 or 173.725, which is located in any county containing a city of the first or second class, *an* [~~or in any~~] urban-county government, *or any county in which there are no incorporated areas.*

Section 9. KRS 173.860 is amended to read as follows:

There is hereby created the urban libraries fund for distribution to free public libraries in counties containing cities of the first or second class, [~~or~~] urban-county governments *or any county in which there are no incorporated areas* pursuant to the provisions of KRS 173.870. The fund shall consist of such sums as are appropriated by the general assembly, and any grants, gifts, legacies, devises or other funds or property from any available source, public or private. The receipt, control and expenditure of funds shall be subject to the general provisions of KRS Chapters 41 to 47, governing financial administration of state agencies.

Section 10. KRS 173.870 is amended to read as follows:

The state librarian shall annually on September 1 cause the state treasurer to pay to each qualifying library out of the urban libraries fund, to the extent that funds are available, the sums computed as follows:

(1) The sum of twenty-five cents (25) for each resident of the county containing a qualifying library based

on the then current census of such county supplied by the bureau of census, United States department of commerce; and

(2) *The remainder of available funds shall be divided equally between the free public libraries in counties containing cities of the first or second class, an urban-county government, and any county in which there are no incorporated areas* [~~The sum of ten thousand dollars ($10,000) for each one hundred thousand dollars ($100,000) which is appropriated for library purposes by any city, county, urban-county government or other governmental unit or taxing authority supplying funds, excluding federal revenue sharing funds, to a free public library in such county~~].

HB 906, AN ACT relating to county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.090 is amended to read as follows:

(1) The fiscal court of each county shall hold its sessions at the county seat or at other county government centers within the county as authorized by the fiscal court. On the seventh day prior to any meeting of the fiscal court at a site other than the county seat, the clerk of the fiscal court shall, for one (1) day, publish notice of the meeting in a newspaper as provided by KRS Chapter 424.

(2) The fiscal court shall hold *a* [~~two (2)~~] regular *term* [~~terms~~] each *month* [~~year~~], which shall continue until the business of the court is completed. The county judge/executive may, by an order of record, fix the dates for the commencement of the regular terms[~~, but one (1) of the terms must be held in October; if he does not fix the terms, the first regular term shall commence on the first Tuesday of April and the second regular term on the first Tuesday of October~~].

(3) The county judge/executive may call a special term of the fiscal court for the transaction of any business of which that court has jurisdiction. *If* [~~Whenever~~] a special term is necessary and the county judge/executive is unable, or refuses to act, a majority of the members of the fiscal court may call the special term.

Section 2. KRS 61.170 is amended to read as follows:

(1) County judges/executive, justices of the peace, sheriffs, coroners, surveyors, jailers, county attorneys and constables may be indicted in the county in which they reside for misfeasance or malfeasance in office, or wilful neglect in the discharge of official duties, and if convicted they shall be fined not less than one hundred (100) nor more than one thousand dollars ($1,000), and the judgment of conviction shall declare the office held by such person vacant.

(2) Any sheriff, deputy sheriff, policeman or other peace officer who fails to enforce any provision of KRS 242.010 to 242.990 after receiving information of a violation thereof, or having knowledge of a violation thereof and failing to act thereon, may be indicted for nonfeasance or malfeasance in office, and if convicted shall be fined not less than fifty (50) nor more than two hundred dollars ($200), and the judgment of conviction shall declare the office held by such person vacant.

(3) In the absence of good cause shown, a member of the fiscal court who fails to attend fifty percent (50%) of the regular terms of the fiscal court within a six (6) month period or who fails to attend two (2) consecutive terms of the fiscal court shall be guilty of neglect of office and upon conviction shall forfeit his office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 68 IS CREATED TO READ AS FOLLOWS:

(1) Claims against the county that are within the amount of line items of the county budget and arise pursuant to contracts duly authorized by the fiscal court shall be paid by the county judge/executive by a warrant drawn on the county and co-signed by the county treasurer.

(2) The county judge/executive shall present all claims to the fiscal court for review prior to payment and the court, for good cause shown, may order that a claim not be paid.

Section 4. KRS 68.260 is amended to read as follows:

(1) The proposed county budget, tentatively approved by the fiscal court and approved by the state local finance officer as to form and classification shall be submitted to the fiscal court for adoption not later than July 1 of each year or within ten (10) days after receipt of the certified assessment from the department of revenue, as provided in KRS 133.180, whichever shall be later. *The budget as presented and amended shall be adopted as of July 1.* The county judge/executive shall cause a copy of the proposed budget to be posted in a conspicuous place in the courthouse near the front door, and be published pursuant to KRS chapter 424, at least ten (10) days before final adoption by the fiscal court.

(2) Any taxpayer or group of taxpayers may petition the fiscal court in respect to the budget or any part thereof before final adoption.

(3) If the fiscal court rejects any part of the proposed budget, it shall make the changes in the nature and amount of funds a majority of the court considers desirable; but it has no power to make any change in the form or classification of the budget units or subdivisions of units.

Section 5. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May *1* [~~24~~] of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units as prescribed by the state local finance officer, including but not limited to:

(a) General expenses of county government.

(b) Protection to persons and property.

(c) General health and sanitation.

(d) Social services.

(e) Recreation and culture.

(f) Transportation facilities and services.

(g) Debt service.

(h) Administration and miscellaneous.

(i) Jail operations.

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund interest account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each

class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250.

Section 6. KRS 441.215 is amended to read as follows:

(1) By April *1* [~~15~~] of each year, the county judge/executive, county treasurer and jailer shall prepare and submit to the fiscal court a proposed line item jail budget and an estimate of revenues for jail operations from federal, state and local sources. The proposed jail budget and estimate of revenues shall be included in the proposed county budget and investigated by the fiscal court as provided in KRS 68.240.

(2) The state local finance officer shall supervise and direct the form and classifications of the line item jail budget and estimate of jail revenues.

(3) The fiscal court shall consult with the jailer prior to any amendment of the jail budget. The fiscal court shall possess sole authority to transfer funds between line items.

(4) If, in the opinion of the jailer, the jail budget as proposed or as amended by the fiscal court, fails to adequately provide for the safe and secure operation of the jail or the care of prisoners, the jailer shall submit a written statement of such concerns along with any available documentation, to the fiscal court and to the corrections cabinet.

The Committee Amendment No. 1 to **HB 906** is as follows:

Amend printed copy of **HB 906** on page 7, line 11, by adding thereafter "Section 7. Whereas sections of this Act pertain to county budgets which are adopted on July 1, an emergency is declared to exist and this Act shall take effect when approved by the General Assembly and signed by the Governor.".

The Committee Amendment No. 2 to **HB 906** is as follows:

Amend printed copy of **HB 906** on page 3, line 2, by deleting "*guilty of*" and by substituting therefor "*charged with*".

HB 935, AN ACT relating to sanitation districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 220 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 220.080, the jurisdictional boundaries of a sanitation district organized or operating under KRS Chapter 220 shall be coextensive with the jurisdictional boundaries of the counties it was organized to serve if the district was organized to serve two (2) or more counties, and no other such district has been organized to serve said counties. All cities of the second through sixth class located in a county which is part of a sanitation district as described in this section shall be included in the jurisdictional boundaries of the sanitation district.

(2) There shall be established, in sanitation districts as described in subsection (1) of this section, a two (2) county advisory board comprised of the county judges/executive of the two (2) counties as co-chairmen, and one (1) representative of each city within the jurisdictional boundaries of the sanitation district. The city representatives shall be selected by their respective cities. If other counties join the sanitation district, each county judge/executive of the other counties shall become a co-chairman, and each city in the other counties shall designate a representative to the advisory board. The advisory board shall meet at least semi-annually, and may meet more often and conduct studies, the cost of which shall be paid by the sanitation district, if approved by the judges/executive of the counties comprising the district. The advisory board shall conduct, but shall not be limited

to, studies of the costs to customers if the district were to include sewer maintenance in base sewer rates, the costs and benefits of having the sanitation district assume ownership and maintenance of all sewer facilities within the district, and the costs and benefits of the takeover of storm sewers by the district. The advisory board shall expire by July 1, 1993.

(3) Any city within the district, upon passage of a municipal ordinance and acceptance by the sanitation district, may join the sanitation district and be operated as a municipal subdistrict. The city may:

(a) Review and approve, amend or disapprove proposed subdistrict land acquisitions;

(b) Review and approve, amend or disapprove proposed subdistrict construction of capital improvements;

(c) Review and approve, amend or disapprove proposed subdistrict charges or user fees;

(d) Review and approve, amend or disapprove the subdistrict's proposed budget; and

(e) Retain the right to rescind the voluntary establishment of its respective municipal subdistrict for an initial period of three (3) years. If the right of rescission is not exercised by the respective city during the initial three (3) years, the operational sewer system of the municipal subdistrict, including, but not limited to, sewers, easements, manholes, pumping stations, force mains and real property, shall become the property, personal and real, of the sanitation district. If a city exercises its right of rescission, the operational sewer system of that respective municipal subdistrict shall remain the property of the city and the city shall pay the sanitation district for all unreimbursed costs incurred by the sanitation district with regard to the establishment and operation of the municipal subdistrict.

(4) The costs of establishing and operating a municipal subdistrict, shall be borne by the municipal subdistrict. User fees may include the costs of all sewer maintenance, operation, repairs, replacement, new installations and bonded indebtedness or other financing, including the full funding of depreciation.

(5) A municipal subdistrict shall be subject to the same control by the public service commission as the commission exerts over the district.

Section 2. KRS 220.140 is amended to read as follows:

Within twenty (20) days after the commissioner certifies to the county clerk of each county in which the district is located that the district is incorporated, there shall be appointed a board of directors for the district, consisting of three (3) members, which shall control and manage the affairs of the district. If the district lies wholly within a single county, the county judge/executive of that county shall appoint all of the directors. If the district lies within two (2) counties, the county judge/executive of the county in which the greater portion of the population of the district resides may appoint two (2) directors and the county judge/executive of the other county shall appoint the third. If the district lies within more than two (2) counties, the county judge/executives of all the counties shall jointly select the directors, but each one so appointed must reside in a different county. Not less than two (2) of the directors shall be freeholders, and not more than two (2) of them shall belong to or be affiliated with the same political party. *If the district is coextensive with the boundaries of two (2) or more counties, four (4) directors shall be appointed by the county judge/executive of the most populous county, two (2) shall be appointed by the county judge/executive of the next most populous county, and one (1) director shall be appointed by the county judge/executive of each remaining county. All appointments by county judges/executive shall be subject to the approval of the respective fiscal courts. In a district which is coextensive with the boundaries of two (2) or more counties, not less than two-thirds (2/3) of the directors shall be freeholders.* No director shall be in any way associated or connected with the ownership, operation or control of any privately owned public utility operating within the district. The terms of office of the first board of directors shall be two (2), three (3) and four (4) years, respectively, from the date of their appointment, the length of the term of office of each member to be determined by lot at their first meeting, but the individual holding such office shall do so at the pleasure of the county judge/executive by whom he is appointed, and he may be removed *without cause, with the approval of the respective fiscal court,* by the county judge/executive by whom he was appointed and his unexpired term filled by another appointee of such county judge/executive. After the expiration of the respective terms of office of the first board, each director shall be appointed for a term of four (4) years, subject to the will of the county judge/executive making the appointment. Vacancies resulting from any cause other than expiration of term shall be filled only for the unexpired term. The county judge/executive of the county whose director has completed his term of office or whose office has otherwise been vacated shall fill the vacant office, except that when the district lies within more than three (3) counties, *if each county is not represented,* vacancies resulting from expiration of term shall be filled in rotation by the county judge/executives of those counties not represented by a director at the time a vacancy occurs. The directors shall at all times be residents of the district, and the office of any director who moves his residence outside the district shall automatically be vacated.

Section 3. KRS 220.536 is amended to read as follows:

(1) When a petition for annexation of territory to a district is filed with the commissioner, he shall investigate at once the boundary of the territory proposed to be annexed, and may, at the cost of the district, cause to be made surveys necessary to establish with reasonable accuracy a boundary that will, in his judgment, accomplish the purpose sought by annexation of the territory in a practicable and workable manner, and that will be sufficiently comprehensive to avoid confusion or interference with any other similar district then existing or that may be created. The boundary established by the commissioner need not follow the boundary proposed by the district.

(2) Should it be found desirable to include in the territory to be annexed by a district all or a portion of a city of the second, third, fourth, fifth or sixth class, the governing body of such city shall determine by ordinance whether the city or portion thereof shall be included in the district, or whether the city shall bind itself to pay the charges for the services of the district furnished in such area.

(3) When the boundaries of the territory proposed to be annexed have been fixed by the commissioner as prescribed in subsection (1) of this section, he shall give notice of the application for annexation of the territory by publication pursuant to KRS chapter 424.

(4) If a multicounty district proposes to annex the unincorporated territory of another contiguous county, and the fiscal court of the contiguous county expresses by resolution its approval of the annexation, then the commission shall accept the boundaries of the proposed annexation.

Section 4. KRS 220.537 is amended to read as follows:

Owners [~~Any owner~~] of real property in the territory proposed to be annexed who *wish* [~~wishes~~] to object to the annexation of the territory to the district shall, within *thirty (30)* [~~sixty (60)~~] days after the giving of notice by the commissioner, file *a* [~~his~~] petition, *signed by twenty-five percent (25%) of the freeholders in the territory proposed to be annexed,* in the circuit court of the county in which the larger part of the territory proposed to be annexed is located, naming the commissioner, *or in the case of annexation pursuant to KRS 220.536(4) naming the district, as* defendant and setting out in *the* [~~his~~] petition *their* [~~his~~] objections to the annexation of the territory. The commissioner *or district* shall be represented in the circuit court by the county attorney and in the Court of Appeals by the attorney general, and he also may require his defense to be made by the district. The issues may be made up and the case may be docketed for hearing as in an action for a declaration of rights. The burden of proof shall be upon the *plaintiffs* [~~plaintiff~~] to show cause why the territory, or any portion of it, should not be annexed to the district. If the court renders judgment against the commissioner *or district,* the judgment shall point out the changes required for annexation of the territory, which, if met by the commissioner *or district,* shall authorize annexation of the territory. If the proposed changes are not met by the commissioner *or district,* the territory shall not be annexed unless new proceedings are instituted in the manner prescribed by KRS 220.535 and 220.536, but such new proceedings shall not be instituted for a period of six (6) months after the date of judgment. If the court gives judgment against the *plaintiffs* [~~plaintiff~~], the board of directors may annex the territory. An appeal shall suspend the judgment until the case has been passed upon by the Court of Appeals and final judgment rendered. Either the *plaintiffs* [~~plaintiff~~] or the commissioner *or district* may appeal from the judgment of the circuit court to the Court of Appeals, but the commissioner *or district* shall not be required to make any appeal bond. Except as otherwise provided in this section, the pleading and practice shall be the same as in other suits in equity.

Section 5. KRS 220.110 is amended to read as follows:

(1) If no suit is filed against the commissioner under KRS 220.100, or if suit is filed and final judgment in the circuit court or an appeal is in favor of the commissioner, the commissioner shall forthwith declare the district organized into a sanitation district and give it a corporate name, as provided in KRS 220.050, by which in all proceedings it shall thereafter be known. The commissioner shall certify his act to the county clerk of each county in which any part of the district is located, and to the secretary of state, each of whom shall record the certificate as articles of incorporation. The commissioner shall also certify his act to the

county judge/executive of each county in which any part of the district is located. The district shall then be a political subdivision and shall have perpetual existence, except as otherwise specifically provided in KRS 220.530, with power to sue and be sued, contract and be contracted with, incur liabilities and obligations, exercise the right of eminent domain, assess, tax, and contract for rentals as herein provided, issue bonds, and do and perform all acts herein expressly authorized and all acts necessary and proper for the carrying out of the purpose for which the district was created, and for executing the powers with which it is invested.

(2) The board of directors of the district may amend the corporate name of the district, but the amendment shall not be effective until certified by the board to the commissioner, the county clerk and county judge/executive of each county in which any part of the district is located, and to the secretary of state.

The Committee on Energy reported **HB 873**, **HB 874** and **SB 201** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 873, AN ACT relating to utilities in cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96.530 is amended to read as follows:

(1) Any city acquiring or constructing an electric light, heat and power plant under the provisions of KRS 96.520 shall, by ordinance, appoint a city utility commission consisting of three (3) commissioners to operate, manage and control the plant, except that a city of the second class shall appoint five (5) commissioners. The utility commission shall have absolute control of the plant in every respect, including its operation and fiscal management and the regulation of rates, except that in fixing rates the commission shall be governed by the provisions of KRS 96.430, as it is made applicable to such plants by KRS 96.520, and by any ordinance enacted under that section, [(]except that in fixing rates the commission in a city of the second or third class shall be governed by the provisions of KRS 96.535 and any ordinance enacted thereunder[)]. The utility commission, when so appointed, shall be and hereby is declared to be a public body politic and corporate, with perpetual succession; and said body may contract and be contracted with, sue and be sued, in and by its corporate name, and have and use a corporate seal. The utility commission shall provide rules for the management of the plant, and it shall fix the number, qualifications, pay, and terms of employment of all employes needed to operate the plant. In cities of the second or third class providing civil service coverage for city employes, the utility commission appointed under this section shall provide such civil service coverage for all of its employes and it shall exercise the powers and functions with respect to such employes which are vested in the city legislative body with respect to the city employes by KRS 90.380. Employes who have been in the employment of the utility commission for one (1) year immediately preceding the adoption of an order by the utility commission placing all of its employes under civil service coverage shall not be required to stand a civil service examination and they shall be eligible for all the benefits provided by such civil service coverage. Out of the revenue of the plant it shall pay operating expenses, repairs and necessary additions and provide sufficient reserve fund against any emergency that may arise. The commission shall from time to time pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.430 and 96.440, as they are made applicable to such plants by KRS 96.520, [(]except that the commission in a city of the second or third class shall pay to the city the surplus revenue derived from the operation of the plant as is provided in KRS 96.535 and any ordinance adopted thereunder[)]. Notwithstanding the foregoing provisions the utility commission, for the purpose stated in subsection (1) of KRS 96.520, may enter into an agreement for the operation of any of its plants or other facilities.

(2) Except as provided in KRS 61.070, no person shall be appointed a member of the commission who has, within the last two (2) years before his appointment, held any city, county, state or federal office, or been a member of any committee of any political party, or who is related within the third degree to the mayor or a member of a city legislative body. The commission shall not appoint to any subordinate office that it may create any person who is related to any commissioner, to the mayor or to any member of the city legislative body. No officer or employe of the city, whether holding a paid or unpaid office, shall be eligible to be appointed as a member of said commission or to be employed by the commission in any capacity. The members of the commission shall be citizens, taxpayers, and legal voters of the city and shall not at the time of appointment be indebted to the city or be surety on the official bond of any officer of the city. If at any time during his term of office any member of the commission becomes a candidate for or is elected or appointed to any public office he shall automatically vacate his membership on the commission and another person shall be appointed in his place.

(3) The city shall pay the cost of securing bonds for the commissioners from a surety company, and

each commissioner shall execute bond to be approved by the city legislative body.

(4) The city legislative body shall fix the salary to be paid each member of the commission at a sum not to exceed:

(a) Two thousand four hundred dollars ($2,400) per annum, if the city does not own or operate electric generation facilities; or

(b) Two thousand four hundred dollars ($2,400) per annum, if the city owns or operates electric generation facilities.

(5) The first commissioners appointed under this section shall be appointed one (1) for the term of one (1) year, one (1) for the term of two (2) years and one (1) for the term of three (3) years. Upon the expiration of the first terms, successors shall be appointed for a term of three (3) years. On a commission with five (5) members, not more than two (2) members shall hold concurrent terms of office.

(6) All commission members appointed subsequent to the initial members shall be appointed by the mayor or chief executive of the municipality, with the approval of the governing body of the municipality.

Section 2. The provisions of this Act shall not apply to those commissioners appointed but whose terms were not completed before the effective date of this Act.

HB 874, AN ACT relating to the public service commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.130 is amended to read as follows:

(1) For the purpose of maintaining the commission, including the payment of salaries and all other expenses, and the cost of regulation of the utilities subject to its jurisdiction, the revenue cabinet shall each year assess the utilities in proportion to their earnings or receipts derived from intrastate business in Kentucky for the preceding calendar year as modified by KRS 278.150, and shall notify each utility on or before July 1 of the amount assessed against it. The total amount so assessed shall not in any year exceed *two (2)* [~~one and one-half~~] mills on intrastate receipts as so modified, which shall be deposited into the state treasury to the credit of the general fund. The sum by each utility shall not be less than fifty dollars ($50) in any one (1) year.

(2) The assessments provided for in this section shall be in lieu of all other fees or assessments levied by any city or other political subdivision for the control or regulation of utilities.

(3) The commission, upon application by a utility, shall authorize the utility to adjust its rates to recover, within not more than one (1) year, any change in the annual assessment and any costs imposed by commission order for the fees and expenses of consultants. The application, and any hearing or other proceedings thereon, shall be limited to the amount of such adjustment.

SB 201, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.420 is amended to read as follows:

(1) In any [~~If an~~] action *filed* [~~is commenced~~] against the commission because of *its* [~~an~~] order [~~made~~] in *a proceeding* [~~any proceedings~~] before it, the commission shall *file* [~~promptly cause~~] a certified *copy* [~~transcript~~] of *the designated record and evidence with* [~~all proceedings had and testimony taken therein to be made and filed with the clerk of~~] the court in which the action is pending.

(2) Unless an agreed statement of the record is filed with the court, the filing party shall designate, within ten (10) days after an action is filed, the portions of the record necessary to determine the issues raised in

the action. Within ten (10) days after the service of such designation or within ten (10) days after the court enters an order permitting any other party to intervene in the action, whichever occurs last, any other party to such action may designate additional portions for filing. The court may extend the ten (10) day period where cause is shown. Additionally, the court may require or permit subsequent corrections or additions to the record.

(3) The cost of preparing and certifying the record shall be *taxed and* paid to the commission [~~by the party bringing the action, and taxed as part of the costs, to be paid~~] as directed by the court upon final determination of the action. *As a part of this determination, the court may tax a party for the cost of preparing portions of the record not deemed reasonably necessary to the disposition of the action.* Copies of the *designated record* [~~transcript~~] shall be furnished at cost to any party to the *action* [~~proceeding~~].

The Committee on Judiciary-Criminal reported **HB 343** with Committee Substitute attached thereto, and **HB 452** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 343, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 635.020 is amended to read as follows:

(1) If a child before the court has been charged with a capital offense or a Class A, B, or C felony, upon motion of the county attorney prior to adjudication to transfer as a youthful offender, the court shall initially proceed in accordance with the provisions of KRS 640.010.

(2) If a child over sixteen (16) before the court has been charged with a Class D felony and has on two (2) prior occasions been adjudicated delinquent of a felony offense, upon motion of the county attorney prior to adjudication to transfer as a youthful offender, the court shall initially proceed in accordance with the provisions of KRS 640.010.

(3) If a child under eighteen (18), previously convicted as a youthful offender under the provisions of KRS Chapter 640, is charged with the commission of a felony upon motion of the county attorney, prior to adjudication to transfer as a youthful offender, the court shall initially proceed in accordance with the provisions of KRS 640.010.

(4) If a person who is eighteen (18) or over and before the court charged with a felony that occurred prior to such person's eighteenth (18th) birthday, upon motion by the county attorney prior to adjudication to transfer as a youthful offender, the court shall proceed initially in accordance with the provisions of KRS Chapter 640.

(5) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to circuit court.

[~~(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.~~

~~(2) If a child over fourteen (14) before the court has been charged with a capital offense, Class A felony or Class B felony, the court shall initially proceed in accordance with the provisions of KRS 640.010.~~

~~(3) If a child over sixteen (16) before the court has been charged with a Class C or Class D felony and has on two (2) prior separate occasions been adjudicated delinquent of a felony offense, the court shall initially proceed in accordance with the provisions of KRS 640.010.~~

~~(4) If a child under eighteen (18), previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with the commission of a felony the court shall initially proceed in accordance with the provisions of KRS 640.010.~~

~~(5) A child who is charged as is provided in subsection (2) of this section and is also charged with a~~

~~Class C or D felony arising from the same course of conduct shall have all charges included in the same proceedings and the court shall initially proceed in accordance with the provisions of KRS 640.010.~~

~~(6) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct.~~]

Section 2. KRS 635.090 is amended to read as follows:

(1) If the county attorney elects not to proceed under the provisions of KRS Chapter 640 or if the court chooses to treat the child as other than a youthful offender or the Commonwealth fails to sustain its burden utilizing the criteria for transfer under KRS Chapter 640 the court may:

(a) If a child is adjudicated delinquent in the commission of a capital offense, Class A, B, or C felony, the court in its discretion may commit the child to the cabinet for purpose of treatment or placement in a facility or program for an indeterminate period of time not less than six (6) months nor more than twelve (12) months.

(b) If a child is less than sixteen (16) years of age or older, and is adjudicated delinquent in the commission of a felony offense and has previously been adjudicated delinquent of a felony offense in two (2) or more adjudications, the court in its discretion may commit the child to the cabinet for purposes of placement in a facility or other treatment program for an indeterminate period of time not less than six (6) months nor more than twelve (12) months.

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) The cabinet shall notify the committing court prior to the termination of the treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(4) After a child has been committed to the cabinet as provided in this section he may not then be transferred to the circuit court as provided for in KRS 640.020.

[~~(1) If the court chooses to treat the child as other than a youthful offender or if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640, the court may:~~

~~(a) If a child is fourteen (14) years of age or older, and is adjudicated delinquent in the commission of a capital offense, Class A felony or Class B felony, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not exceeding twelve (12) months; or~~

~~(b) If a child is sixteen (16) years of age or older, and is adjudicated delinquent in the commission of a felony offense and has previously been adjudicated delinquent of a felony offense in two (2) or more separate adjudications, the court in its discretion may commit the child to the cabinet for purposes of placement in a facility or other treatment program for an indeterminate period of time not exceeding twelve (12) months.~~

~~(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.~~

~~(3) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.~~

~~(4) The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.~~

~~(5) After a child has been committed to the cabinet as provided in this section he may not then be transferred to the circuit court as provided for in KRS 640.020.~~]

Section 3. KRS 610.230 is amended to read as follows:

(1) No child charged with a status offense as specified in KRS Chapter 630 shall be detained in a jail, lockup, or intermittent holding facility in which adult prisoners are confined.

(2) A child accused of committing a public offense or who is found to be in contempt of court under KRS Chapter 635, may be detained in a secure detention facility or, if such facility is unavailable, in an intermittent holding facility in a room or ward entirely separate from adult prisoners. Such detention shall be authorized for the time periods specified in KRS 610.220 and KRS 610.240 and thereafter only after a hearing conducted by the judge of the juvenile session of district court utilizing the criteria contained in KRS 610.280.

(3) As part of a dispositional order, a child adjudicated as a public offender may be detained pursuant to KRS 635.060 for a period not to exceed 30 days in a secure detention facility, or if such facility is unavailable, in an intermitent holding facility in a room or ward entirely separate from adult prisoners.

(4) A child found to be in violation of a specific court order may be detained in a secure detention facility or if such facility is unavailable, in an intermittent holding facility in a room or ward entirely separate from adult prisoners.

(5) Initial hearings for detention of a child pursuant to this section may be done in any informal manner, including but not limited to telephone conference with the judge or court designated worker or clerk in this absence in accordance with Chapter 635. In making detention decisions the judge or court designated worker shall consider the needs of the child, the needs of the community, and the reasonable availability of alternative facilities.

[~~(1) No child who is accused of committing acts, which if committed by an adult, would not be a crime and no child who has been found to be in contempt of court shall be detained in any jail, police station, lockup, intermittent holding facility, or any building which is part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.~~

~~(2) No child under eighteen (18) who is accused of committing acts, which if committed by an adult would be a crime, shall at any time be detained in any intermittent holding facility, police station, lockup, or jail, except that, on the basis of a hearing for that purpose, by the judge of the juvenile session of district court, a child whose conduct or condition is such as to endanger his safety or welfare or that of others in the detention facility for children, may be placed in a jail or other place of detention for adults, but in a room or ward entirely separate from adult prisoners.~~]

Section 4. KRS 610.990 is amended to read as follows:

(1) Any person who *intentionally* violates any of the provisions of this chapter, other than KRS 610.230, shall be guilty of a Class B misdemeanor.

(2) Any person who violates KRS 610.230 shall be guilty of a Class A misdemeanor.

Section 5. KRS 640.010 is amended to read as follows:

(1) Upon the county attorney's motion to proceed under this chapter, the court shall hold a preliminary hearing during which the court shall explain to the child the procedures utilized under this chapter and shall give the child the opportunity to retain private counsel or shall, in the appropriate case, appoint counsel paid for or provided by the department of public advocacy.

(2) In the case of a child charged with a capital offense, a Class A felony, or charged with a felony and previously convicted as a youthful offender or over the age of eighteen (18) but charged with a felony that occurred prior to the person's eighteenth (18th) birthday, the court upon motion by the county attorney shall conduct a transfer hearing to determine if the child should be transferred to circuit court as a youthful offender.

(a) The hearing held to consider the transfer of a child as a youthful offender shall determine if there is probable cause to believe that an offense was committed and that the child committed the offense.

(b) If the court determines probable cause exists, the court shall then determine if it is in the best interest of the community to order such a transfer based upon the seriousness of the alleged offense; whether the offense

was against person or property, with greater weight being given to offenses against persons; the maturity of the child as determined by his environment; the child's prior record; and the prospects of adequate protection of the public and the likelihood of reasonable rehabilitation of the child by the use of procedures, services and facilities currently available to the juvenile justice system.

(c) If, following the completion of the transfer hearing, the court is of the opinion that the best interest of the child and of the public would be protected by such transfer, the court shall issue an order transferring the child as a youthful offender and shall state the reasons for such transfer.

(3) In the case of a child over sixteen (16) and charged with a Class D felony, the court upon motion by the county attorney shall conduct a transfer hearing to determine if the child should be transferred to circuit court as a youthful offender.

(a) The hearing shall determine if there is probable cause to believe that the child is sixteen (16) or older.

(b) The hearing shall determine if there is probable cause to believe that the child has been adjudicated delinquent of two prior felony offenses.

(c) The hearing shall determine if there is probable cause to believe that an offense was committed and that the child committed it.

(d) If the court determines that probable cause exists under (a), (b) and (c) above, the court shall then determine if it is in the best interest of the child and the community to order such a transfer based upon the seriousness of the alleged offense; whether the offense was against person or property, with greater weight being given to offenses against persons; the maturity of the child as determined by his environment; the child's prior record and the prospects for adequate protection of the public and the likelihood of reasonable rehabilitations of the child by use of procedures, services and facilities currently available to the juvenile justice system.

(e) If, following the completion of the transfer hearing, the court is of the opinion that the best interest of the child and the public would be protected by such transfer, the court shall issue an order transferring the child as a youthful offender and shall state the reasons for such transfer.

[~~(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5) or (6), the court shall hold a preliminary hearing during which counsel paid for, or provided by, the department of public advocacy is appointed for the child, if the child has not retained private counsel. The Commonwealth shall establish probable cause that the child committed the offense charged and in addition shall prove the existence of at least one (1) of the following factors:~~

~~(a) The child has been adjudicated delinquent of a felony within one (1) year prior to the commission of the charged offense; or~~

~~(b) The child has failed to comply with the conditions of a dispositional order imposed following an adjudication of delinquency for a felony offense during the year immediately preceding the bringing of this action.~~

~~(2) If the Commonwealth establishes probable cause that the child committed the offense charged and sustains its burden of proving the existence of at least one (1) of the factors set forth above, the charges against the child shall be transferred to the circuit court to be tried as a youthful offender, except that the child may present to the court reasons why he should not be transferred to the circuit court.~~

~~(3) If the Commonwealth fails to prove the existence of at least one (1) of the factors listed in subsection (1) of this section or if the court determines the child's case should be dealt with in the juvenile court, the child shall not be transferred to the circuit court but shall be dealt with as provided in KRS Chapter 635.~~]

Section 6. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240, 15A.990, "juvenile detention center" means any facility used for the secure detention of children *including* [~~other than~~] a jail, [~~police station,~~] lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined

[~~or which shares staff with a facility in which adult prisoners are confined~~].

Section 7. KRS 15A.210 is amended to read as follows:

(1) [~~On or before July 1, 1987,~~] The justice cabinet shall issue administrative regulations to govern at least the following aspects of the operation of juvenile detention centers:

(a)[~~(1)~~] Administration;

(b)[~~(2)~~] Personnel;

(c)[~~(3)~~] Training and staff development;

(d)[~~(4)~~] Recordkeeping;

(e)[~~(5)~~] Physical plant;

(f)[~~(6)~~] Security and control;

(g)[~~(7)~~] Safety and emergency procedures;

(h)[~~(8)~~] Sanitation and hygiene;

(i)[~~(9)~~] Medical and health services;

(j)[~~(10)~~] Food services;

(k)[~~(11)~~] Intake and classification;

(l)[~~(12)~~] Programs and services;

(m)[~~(13)~~] Residents' rights;

(n)[~~(14)~~] Rules and discipline;

(o)[~~(15)~~] Admission procedures;

(p)[~~(16)~~] Communication, including mail, visitation and telephone;

(q)[~~(17)~~] Release preparation and transfer programs; and

(r)[~~(18)~~] Volunteer involvement.

(2) No administrative regulation shall be promulgated which requires detention of children in a facility separate from a facility, or portion thereof, which houses adults or which requires a separate staff or administration for such facility.

The Committee Substitute to **HB 343** is as follows:

HB 343. AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645 unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; abandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) "Cabinet" means the cabinet for human resources;

(3) "Child" means any person who has not reached his eighteenth (18th) birthday unless otherwise provided;

(4) "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(5) "Community-based facility" means any non-secure, homelike facility licensed, operated, or permitted to operate, by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(6) "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(7) "Court" means the juvenile session of district court;

(8) "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

(9) "Delinquency action" is an action brought in the interest of a child who is accused of committing a public offense, which if committed by an adult would be a crime, whether the same is a felony, misdemeanor, or violation;

(10) "Department" means the department for social services;

(11) "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(12) "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(13) "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(14) "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(15) "Emotional injury" means, except in KRS Chapter 625, an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(16) "Family service worker" means any employe of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(17) "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(18) "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(19) "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(20) "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public institution, health care facility, or part thereof, which is approved by the cabinet to treat children;

(21) "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(22) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(23) "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(24) "Non-secure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(25) "Parent" means the biological or adoptive mother or father of a child;

(26) "Person exercising similar custodial control or supervision" means a person who has assumed the role and responsibility of a parent or guardian for the child, but who does not necessarily have legal custody of the child;

(27) "Physical injury" means substantial physical pain or any impairment of physical condition;

(28) "Public offense petition" means that document filed with the circuit clerk which incorporates the allegations of criminal conduct contained in the complaint and which states facts that establish the jurisdiction of the court for public offenses;

(29) "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(30) "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(31) "School personnel" means those certified persons under the supervision of the local public or private education agency;

(32) "Secretary" means the secretary of the cabinet for human resources;

(33) "Secure detention facility" means any facility used for the secure detention of children *including* [~~other than~~] a jail, [~~police station,~~] lock-up, *or* intermittent holding facility[~~, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined~~];

(34) "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(35) "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(36) "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(37) "Status offense" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult would not be a crime. Such behavior shall not be termed criminal or delinquent; and such children shall not be considered delinquent. Status offenses do not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(38) "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(39) "Youthful offender" means any person regardless of age, transferred to circuit court under the provisions of KRS Chapter 640.

Section 2. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child [~~over fourteen (14) before the court has been~~] charged with a capital offense, Class A felony or Class B felony, *had attained age fourteen (14) at the time of the alleged commission of the offense,* the court shall. *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(3) If a child [~~over sixteen (16) before the court has been~~] charged with a Class C or Class D felony [~~and~~] has on two (2) prior separate occasions been adjudicated *a public offender for a felony offense or a* delinquent of a felony offense *and had attained the age of sixteen (16) at the time of the alleged commission of the offense,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(4) If a child [~~under eighteen (18),~~] previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with [~~the commission of~~] a felony *allegedly committed prior to his eighteenth birthday,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(5) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, *a misdemeanor or a violation* arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(6) If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.

(7) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, *whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to circuit court.*

Section 3. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, [~~or~~] if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 *or if the county attorney elects not to proceed under KRS Chapter 640,* the court may:

(a) If a child is fourteen (14) years of age or older, and is adjudicated *a public offender* [~~delinquent~~] in the commission of a capital offense, Class A felony or Class B felony, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not *less than six (6)* [~~exceeding twelve (12)~~] months. *The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday;* or

(b) If a child is sixteen (16) years of age or older, and is adjudicated *a public offender* [~~delinquent~~] in the commission of a felony offense and has previously been adjudicated delinquent of *two (2) or more* [~~a~~] felony *offenses not arising out of the same course of conduct* [~~offense~~] in two (2) or more separate adjudications, *or has previously been adjudicated a public offender for two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications,* the court in its discretion may commit the child to the cabinet for purposes of *treatment or* placement in a facility or [~~other treatment~~] program for an indeterminate period of time not *less than six (6)* [~~exceeding twelve (12)~~] months. *The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday.*

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) The cabinet shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.

(4) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(5)[~~(4)~~] The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

(6)[~~(5)~~] After a child has been committed to the cabinet as provided in this section he may not then be transferred to the circuit court as provided for in KRS 640.020.

Section 4. KRS 610.230 is amended to read as follows:

(1) No child who is accused of committing acts, which if committed by an adult, would not be a crime and no child who has been found to be in contempt of court shall be detained in any jail, police station, lockup, intermittent holding facility, or any building which is part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.

(2) No child under eighteen (18) who is accused of committing acts, which if committed by an adult would be a crime, shall at any time be detained in any intermittent holding facility, police station, lockup, or jail, except that, on the basis of a hearing for that purpose, by the judge of the juvenile session of district court, a child whose conduct or condition is such as to endanger his safety or welfare or that of others [~~in the detention facility for children~~], may be placed in a jail or other place of detention for adults, but in a room or ward entirely separate from adult prisoners.

(3) Initial hearings for detention of a child pursuant to this section may be done in any informal manner, including but not limited to telephone conference with the judge. In making detention decisions the judge shall consider the needs of the child, the needs of the community, and the reasonable availability of alternative facilities.

SECTION 5. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

The provisions of this Act shall remain in force until:

(1) Amended by the general assembly; or

(2) Federal law requires stricter standards, in which case administrative regulations no more strict than the federal standards shall be promulgated by the justice cabinet, relating to juvenile detention; or

(3) A federal court of competent jurisdiction orders Kentucky to adopt stricter standards, in which case administrative regulations no more strict than those of the federal court shall be promulgated by the justice cabinet, relating to juvenile detention.

Section 6. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240, 15A.990, "juvenile detention center" means any facility used for the secure detention of children *including* [~~other than~~] a jail, [~~police station,~~] lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined [~~or which shares staff with a facility in which adult prisoners are confined~~].

Section 7. KRS 15A.210 is amended to read as follows:

(1) [~~On or before July 1, 1987,~~] The justice cabinet shall issue administrative regulations to govern at least the following aspects of the operation of juvenile detention centers:

(a)[~~(1)~~] Administration;

(b)[~~(2)~~] Personnel;

(c)[~~(3)~~] Training and staff development;

(d)[~~(4)~~] Recordkeeping;

(e)[~~(5)~~] Physical plant;

(f)[~~(6)~~] Security and control;

(g)[~~(7)~~] Safety and emergency procedures;

(h)[~~(8)~~] Sanitation and hygiene;

(i)[~~(9)~~] Medical and health services;

(j)[~~(10)~~] Food services;

(k)[~~(11)~~] Intake and classification;

(l)[~~(12)~~] Programs and services;

(m)[~~(13)~~] Residents' rights;

(n)[~~(14)~~] Rules and discipline;

(o)[~~(15)~~] Admission procedures;

(p)[~~(16)~~] Communication, including mail, visitation and telephone;

(q)[~~(17)~~] Release preparation and transfer programs; and

(r)[~~(18)~~] Volunteer involvement.

(2) No administrative regulation shall be promulgated which requires detention of children in a facility separate from a facility, or portion thereof, which houses adults or which requires a separate staff or administration for such facility.

HB 452, AN ACT relating to the Kentucky Unified Juvenile Code and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645 unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; *creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;* bandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent

or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) *"Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;*

(3) "Cabinet" means the cabinet for human resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the justice cabinet after consultation with the cabinet for human resources and other appropriate state agencies.

(5)[~~(3)~~] "Child" means any person who has not reached his eighteenth [~~(18th)~~] birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8)[~~(4)~~] "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the cabinet for human resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10)[~~(5)~~] "Community-based facility" means any non-secure, homelike facility licensed, operated, or permitted to operate, by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11)[~~(6)~~] "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12)[~~(7)~~] "Court" means the juvenile session of district court;

(13)[~~(8)~~] "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

[~~(9) "Delinquency action" is an action brought in the interest of a child who is accused of committing a public offense, which if committed by an adult would be a crime, whether the same is a felony, misdemeanor, or violation;~~]

(14)[~~(10)~~] "Department" means the department for social services;

(15)[~~(11)~~] "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an

intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17)[~~(12)~~] "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18)[~~(13)~~] "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19)[~~(14)~~] "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20)[~~(15)~~] "Emotional injury" means[~~, except in KRS Chapter 625,~~] an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21)[~~(16)~~] "Family service worker" means any employe of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22)[~~(17)~~] "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23)[~~(18)~~] "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24)[~~(19)~~] "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days *during a one (1) year period* or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25)[~~(20)~~] "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public *facility* [~~institution~~], health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27)[~~(21)~~] "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29)[~~(22)~~] "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the corrections cabinet, which is an entirely separate facility or portion or wing of a jail containing adult prisoners, to which access cannot be gained from the adult section of the jail and which is staffed exclusively by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision;

(31)[~~(23)~~] "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program

developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32)[~~(24)~~] "Non-secure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33)[~~(25)~~] "Parent" means the biological or adoptive mother or father of a child;

(34)[~~(26)~~] "Person exercising [~~similar~~] custodial control or supervision" means a person *or agency that* [~~who~~] has assumed the role and responsibility of a parent or guardian for the child, but *that* [~~who~~] does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36)[~~(27)~~] "Physical injury" means substantial physical pain or any impairment of physical condition;

(37)[~~(28)~~] "Public offense *action* [~~petition~~]" means *an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense* [~~that document filed with the circuit clerk which incorporates the allegations of criminal conduct contained in the complaint and which states facts that establish the jurisdiction of the court for public offenses~~];

(38)[~~(29)~~] "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39)[~~(30)~~] "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or

the court designated worker for the purpose of making preliminary inquiries;

(41)[~~(31)~~] “School personnel” means those certified persons under the supervision of the local public or private education agency;

(42)[~~(32)~~] “Secretary” means the secretary of the cabinet for human resources;

(43)[~~(33)~~] “Secure *juvenile* detention facility” means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44)[~~(34)~~] “Secure facility for residential treatment” means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45)[~~(35)~~] “Serious physical injury” means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) “Sexual abuse” includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47)[~~(36)~~] “Sexual exploitation” includes but is not limited to a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48)[~~(37)~~] “Status offense *action*’+is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be *considered* [~~termed~~] criminal or delinquent; and such children shall [~~not~~] be *termed status offenders* [~~considered delinquent~~]. Status offenses *shall* [~~do~~] not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) “Take into custody” means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50)[~~(38)~~] “Violation” means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51)[~~(39~~]) “Youthful offender” means any person regardless of age, transferred to circuit court under the provisions of KRS Chapter 640 *and who is subsequently convicted in circuit court.*

Section 2. KRS 605.030 is amended to read as follows:

(1) A court designated worker may:

(a)[~~(1)~~] Receive complaints;

(b) Review complaints taken by peace officers;

(c)[~~(2)~~] Investigate complaints except neglect, abuse, and dependency;

(d)[~~(3)~~] *Dispose* [~~Recommend disposition~~] of complaints;

(e) Administer oaths;

(f) Issue summonses;

(g) Issue subpoenas;

(h)[~~(4)~~] Make advisory dispositional recommendations and provide, within forty-eight (48) hours, exclusive of weekends and holidays, information concerning a child who has chosen to waive the investigation pursuant to KRS 610.100 for the use of the cabinet in placing the child;

[~~(5) Administer oaths;~~

~~(6) Issue summonses;~~

~~(7) Issue subpoenas;~~]

(i)[~~(8)~~] Perform such duties as required by KRS Chapter 645;

(j)[~~(9)~~] Make such other determinations as authorized or directed by the courts; and

(k)[~~(10)~~] Perform such other functions related to activities of children as may be authorized or directed by the court.

(2) Upon the filing of a petition which initiates a formal court action in the interest of the child, the court designated worker's involvement, with the exception of the activities defined in subsection (1)(h) of this section, shall cease.

Section 3. KRS 605.040 is amended to read as follows:

A court designated worker shall not:

(1) Issue arrest or search warrants;

(2) Supervise a child following his adjudication when the child is committed to the cabinet or placed on probation under the supervision of the cabinet *or any other agency or individual;*

(3) Perform any clerical work not directly related to required juvenile activities; or

(4) Investigate child abuse, neglect, or dependency *allegations* [~~complaints~~] but shall refer such actions to the cabinet.

Section 4. KRS 605.050 is amended to read as follows:

(1) In counties containing a city of the first or second class, the county judge/executive may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge/executive but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers, *who shall possess* [~~with~~] all the powers of *peace officers* [~~the sheriff~~] in [~~making arrests and~~] carrying out the purposes of *KRS Chapters 600 to 645* [~~this chapter~~]. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his [~~or her~~] probation[~~, and may detain such child for appropriate action by the court~~].

(2) In counties containing an urban-county government, the mayor shall appoint a chief probation officer of the juvenile session of the district court and such number of assistant probation officers, professional and

clerical personnel as are reasonably necessary for the operation of the juvenile session of the district court. Such officers shall receive reasonable salaries to be fixed by the urban-county council, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the urban-county treasury. The officers shall serve at the pleasure of the mayor but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers, *who shall possess* [~~with~~] all the powers of *peace officers* [~~the sheriff~~] in [~~making arrests and~~] carrying out the purposes of *KRS Chapters 600 to 645* [~~this chapter~~]. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his [~~or her~~] probation[~~; and detain such child for appropriate action by the court~~].

(3) In any county, the chief district judge may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers or court appointed special advocates of the juvenile session. Such volunteer probation officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court or the urban-county council, as appropriate, may authorize the payment of compensation and reasonable expenses out of the county or urban-county treasury of any such officers. No court appointed special advocate shall receive compensation from state or county funds but reasonable expenses may be paid.

Section 5. KRS 605.060 is amended to read as follows:

Probation officers of the court shall:

(1) Except as otherwise provided in KRS Chapter 645, make investigations as provided in this chapter.

(2) Be present in court to represent the interest of the child when the cases investigated by them are heard; furnish such information as may be required; advise [~~with~~] the court as to the proper disposition of the case and take such charge of the child before and after the hearings as may be ordered;

(3) Visit and supervise children placed on probation and as far as practicable, aid and encourage such children, by friendly advice and admonition, to keep terms of their probation, and provide for their rehabilitation;

(4) Make such reports and records as may be required by the court;

(5) Supervise the transfer of children to and from homes or *facilities* [~~institutions~~] as directed by the court; and

(6) Work in cooperation with the representatives of the *cabinet* [~~department~~].

Section 6. KRS 605.080 is amended to read as follows:

(1) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to *a residential treatment facility* [~~an institution~~] or *other* facility operated by the cabinet shall be allowed an amount prescribed by regulation adopted by the finance and administration cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the district court and certified by the circuit clerk to the cabinet, for payment out of funds appropriated to the cabinet for this purpose. The child's presence shall be necessary at a post-dispositional proceeding only as required by court order. Expenses for transportation of a child to such a proceeding from *a residential treatment facility* [~~an institution~~] or *other* facility operated by the cabinet shall be paid out of the state treasury.

(2) No child shall be transported to any *residential treatment facility or other facility* [~~institution~~], pursuant to order of any court or direction of the cabinet, unless accompanied by an attendant of the same gender, or, when authorized in writing by the court or cabinet, by a parent, grandparent, or adult brother or sister.

(3) The agent of any *residential treatment facility or other facility which* [~~institution who~~] receives a child transported to the *facility* [~~institution~~] shall report any violation of subsection (2) of this section to the commonwealth's attorney of the judicial circuit in which the *facility* [~~institution~~] is located.

(4) The cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 7. KRS 605.090 is amended to read as follows:

(1) Any child committed to the cabinet may by the decision of the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days prior written notice to the court, discharged from commitment. Written notice of discharge must be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of his parents, [~~or in~~] a suitable foster home, [~~family home~~] or boarding home, upon such conditions as the cabinet may prescribe and subject to visitation and supervision by a family service worker;

(c) Placed in one (1) of the facilities or programs operated by the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c) or (d) or any child ten (10) years of age or under shall be placed in *a facility* [~~an institution~~] operated by the cabinet for children *adjudicated* [~~committed to the cabinet~~] as *public offenders* [~~delinquents~~];

(d) Placed in a child-caring *facility* [~~institution~~] operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section the cabinet shall, within fourteen (14) days (weekends and holidays, excluded) give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) The cabinet shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(3) The person in charge of any home to which a child is probated, and the governing authority of any private *facility* [~~institution~~] or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the cabinet may require in the performance of its functions under the law. The cabinet shall have the power to make such visitations and inspections of the homes, *facilities* [~~institutions~~] and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(4) The cabinet may assist the courts in placing children who have committed public offenses in [~~family homes or~~] boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children [~~in family homes or boarding homes~~] and, to the extent authorized by the fiscal court, the cabinet may incur obligations chargeable to the county for such expenses.

Section 8. KRS 605.100 is amended to read as follows:

(1) The cabinet shall arrange for a program of care, treatment and rehabilitation of the children committed to it, which program shall be designed to provide for classification, segregation and specialized treatment of children according to their respective problems, needs and characteristics, and to provide a coordinated system of probation and parole services.

(2) The cabinet shall be responsible for the operation, management and development of the existing state [~~institutional physical~~] facilities for the custodial care and rehabilitation of children committed to the

cabinet under provisions of this chapter. The cabinet shall further be responsible for the development of such [~~institutional physical~~] facilities [~~and other physical facilities~~] as are necessary to provide an adequate and modern program for the care, treatment and rehabilitation of such children.

(3) The facilities and programs under the control of the cabinet shall be designed and operated in such a manner as to rehabilitate, train, develop and educate the children to become good citizens and useful members of society.

(4) Suitable programs of vocational education and training shall be carried on in the facilities and programs, with the view of preparing the children for future self-support.

(5) The children in each facility and program shall be employed so far as practicable in labor incident to the maintenance and operation of the facility and program, and in suitable industries conducted by the facilities and programs as a part of the vocational training program.

(6) The superintendent or managing officer of each *facility* [~~institution~~] may use, for the maintenance of the *facility* [~~institution~~], the products of farms, dairies, and other departments and industries of the *facility* [~~institution~~], or may sell or exchange such products for the benefit of the *facility* [~~institution~~].

Section 9. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the cabinet requires medical or surgical care or treatment, the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to such medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the cabinet, and as far as practicable any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster [~~family~~] home by an agency duly authorized in KRS Chapter 620 to place a child in a foster [~~family~~] home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. *Arrangements for a* [~~Any~~] child placed in a foster [~~family~~] home *to* [~~shall~~] receive such examinations *shall be made* within two (2) weeks of *his placement* [~~being placed~~] in a foster [~~family~~] home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated by the cabinet shall so far as possible receive a common school education. Those children requiring segregation, restraint or specialized treatment shall be provided supplemental or special education. The department of education, to the extent of available facilities, shall assist and cooperate with the department in the educational programs for the facilities and programs. Administrative regulations shall be promulgated by the cabinet in cooperation with the Kentucky department of education regarding the education of children in state agency programs operated or contracted by the cabinet for children requiring services in day treatment, residential facilities, mental retardation facilities and clinical programs. Administrative regulations shall include but not be limited to certification of teachers, curriculum offerings, accreditation, transfer of credits, affected eligibility for sports programs and extra curricular activities, transition to and from local education agencies, use of state agency children's funds, implementation of Public Law 94-142, as amended, in-service training of teachers, supervision and evaluation of teachers, discipline of children, educational assessment which includes testing for Kentucky essential skills, library services, provision and use of state adopted text books, and administrative structure of individual programs.

Section 10. KRS 605.120 is amended to read as follows:

The cabinet is authorized to expend available funds to provide for the board, lodging and care of children placed by the cabinet in a *foster* [~~family~~] home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise or bequest made to it for its purposes. [~~The cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the institutions or homes to which they are committed, and the traveling expenses of such children from the institutions to their homes when discharged.~~]

Section 11. KRS 605.130 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the cabinet, through its authorized representatives, shall have general supervision and management of all matters contained in KRS 605.090, 620.150, and 620.170 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected, *or* abused[~~, or abandoned~~];

(2) Cooperate with and assist the courts of the various counties;

(3) Assist circuit courts through services to children whenever requested by the court. The cabinet may charge a reasonable fee for such services to be taxed as costs by the court; and

(4) Perform such other services as may be deemed necessary for the protection of children.

Section 12. KRS 605.140 is amended to read as follows:

(1) The chief district judge may appoint a board of not less than six (6) nor more than ten (10) reputable inhabitants *of the county* to be called the advisory board of the juvenile court. The members of the board shall hold office during the pleasure of the judge, and shall serve without compensation.

(2) The board shall visit at least once a year all *facilities* [~~institutions~~] in the county receiving children under *KRS Chapters 600 to 645* [~~this chapter, and may visit any family home or boarding home in the county receiving children under this chapter~~]. At least two (2) of the members of the board shall go together on the visits, and shall make a report to the board. The board shall report to the [~~juvenile~~] court from time to time the condition of the children in the *facilities* [~~institutions or homes~~] and shall make an annual report to the [~~juvenile~~] court.

(3) The board shall advise and cooperate with the chief district court judge upon all matters affecting the workings of *KRS Chapters 600 to 645* [~~this chapter~~], and shall recommend to the court any needful measures for the purpose of carrying out the provisions of *KRS Chapters 600 to 645* [~~this chapter~~]. The appointment and utilization of such advisory boards by each district court judge is recommended by the general assembly as a matter of policy.

Section 13. KRS 605.990 is amended to read as follows:

(1) Any person who *intentionally* violates any provision of this chapter, other than KRS 605.080(3) shall be guilty of a Class B misdemeanor.

(2) Any person who *intentionally* violates KRS 605.080(3) shall be guilty of a violation.

Section 14. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living[~~,~~] or found within the county who has not reached his eighteenth [~~(18th)~~] birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who *allegedly*:

(a) Has committed a public offense *prior to his eighteenth birthday*, except a moving motor vehicle offense involving a child sixteen (16) years of age or older. *A child* [~~The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders~~] sixteen (16) years of age or older *taken into custody upon the allegation that he has committed a moving motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a moving motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the district court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a moving motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility.* [~~accused of or convicted of or pleading~~

~~guilty to moving motor vehicle offenses, shall, if detention is required, be placed in a jail or other place of detention for adults, except in a room or ward entirely separate from adult prisoners; provided, however, that~~] The term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony;

(b) *Has* [~~Does~~] not *subjected* [~~subject~~] himself to the reasonable control of his *parent or* [~~parents, teacher,~~] guardian, *school personnel* or other person exercising custodial control or supervision *of the child*[~~, by reason of being wayward or habitually disobedient~~];

(c) Is an habitual truant from school;

(d) *Is* [~~Has been~~] an habitual runaway from his parent or *other* person exercising custodial control or supervision of the child;

(e) Is [~~found by the court to be~~] dependent, neglected, or abused; or

(f) Is [~~found by the court to be~~] mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be *public offense* [~~delinquency~~] actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status *offense* actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) [~~In addition to informal adjustment, the court shall have the discretion to amend the complaint to reflect jurisdiction pursuant to the proper chapter of the Juvenile Code.~~] Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody however, if the case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court awarding custody of such child, all prior orders of the juvenile session of the district court in conflict therewith shall be deemed cancelled. This section shall not work to deprive the circuit court of jurisdiction over cases filed in circuit court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(8) [~~The court shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070. Any person over whom the court has jurisdiction under this subsection shall be entitled to a trial by jury.~~

~~(9)~~] In the event a child who has not reached his eighteenth [~~(18th)~~] birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court shall have exclusive, original jurisdiction of the new offense.

(9) Nothing in this chapter shall prevent the district court from holding a child in contempt of court to enforce orders previously issued by the court.

(10) Nothing in this chapter shall confer upon the district court jurisdiction over the actions of the cabinet in the placement, care, or treatment of a child committed to the cabinet; or to require the cabinet to perform, or to refrain from performing, any specific act in the placement, care or treatment of any child committed to the cabinet, provided the district court shall have jurisdiction to review a dispositional order as provided in KRS Chapters 620, 630, 635 and 645 and to make orders pursuant to KRS 635.090.

(11) In addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

Section 15. KRS 610.030 is amended to read as follows:

Except as otherwise provided in KRS Chapters 600 to 645:

(1) *If* [~~Whenever~~] any person files a complaint [~~with the court~~] alleging that a child, except a *child alleged to be* neglected, abused, [~~or~~] dependent *or mentally ill who is* [~~child,~~] subject to the jurisdiction of the court, may be within the purview of KRS Chapters 600 to 645, a preliminary *intake* inquiry shall be conducted by the court designated worker to determine the validity of the complaint, and, if valid, whether the interests of the child or the public require that further action be taken;

(2) The court designated worker after conducting the preliminary *intake* inquiry shall:

(a) With notice to complainant:

1. Determine that no further action be taken *and dispose of the complaint*;

2. Refer to an appropriate individual or social service agency for proper action;

3. Enter into diversionary agreement;

4. Refer to court for informal adjustment; or

5. Refer to court for formal hearing;

(3) If the court designated worker determines that the complaint should be referred to the court for either informal adjustment or for formal hearing under subsection (2)(a)4. or 5. of this section, the complaint and findings of the court designated worker's preliminary *intake* inquiry shall be submitted to the court for the court to determine whether process should issue;

(4) At any stage in the proceedings described in this section, the court or the county attorney may review any decision of the court designated worker. The court upon its own motion or upon written request of the county attorney may refer any complaint for a formal hearing.

Section 16. KRS 610.040 is amended to read as follows:

(1) After a *petition* [~~complaint~~] has been filed and after such further investigation as the court may direct, unless the parties appear voluntarily, the court shall issue a summons briefly reciting the substance of the *petition* [~~complaint~~] and requiring the person who has the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned is other than a parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the proceeding and of the time and place appointed. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(2) The summons and notice provided for in subsection (1) of this section shall be served personally by the delivery of a copy thereof to the person summoned, unless the judge is satisfied that personal service would be impracticable, in which event the judge may order service by mail addressed to the last known

address. Service by mail shall be deemed to be effected upon mailing. Notice by mail shall be presumed sufficient if mailed at least forty-eight (48) hours before the time for appearance specified in the summons or notice.

(3) Unless otherwise provided, service of summons or notice may be made by any suitable person, other than an employe of the cabinet, under the direction of the court, and upon request of the court shall be made by any peace officer.

(4) Any person summoned who, without reasonable cause, fails to appear, may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to appear, or in any case when it appears to the judge that the service will be ineffectual, or that the welfare of the child requires that he be brought forthwith before the court, a warrant may be issued for the parent, guardian, person having custodial control or supervision of the child, or the child.

Section 17. KRS 610.050 is amended to read as follows:

If it appears to the court, by affidavit or by sworn testimony, that the child is a danger to himself or the community, or is in such condition or surroundings that his welfare is being harmed or threatened with harm to such a degree that his best interest requires that his custody be immediately changed by the court from the original custodian to another, the judge may sign an order giving temporary custody of the child to a suitable custodian. However, if this case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed; and if the case involves allegations of mental illness, the provisions of KRS Chapter 645 shall be followed. As a part of such order, the court may direct that the child shall be taken into custody by the peace officer serving the summons or by any other peace officer and placed as directed by the court. In any event, a copy of the temporary custody order shall be served on the parent, guardian or other person exercising custodial control or supervision of the child when the summons is served. The temporary custody order shall be effective until the case is heard on its merits, or until modified by the court. As a result of such order, the child shall be placed in custody and care in a [~~family~~] home or other suitable facility.

Section 18. KRS 610.060 is amended to read as follows:

If the court determines that a formal proceeding is required in the interest of the child or to determine the truth or falsity of the allegations against the child, a *petition* [~~complaint, sworn to by the complainant,~~] shall be required pursuant to KRS 610.020, and the court shall, when the child is brought before the court:

(1) Explain to the child and his parents, guardian, or person exercising custodial control their respective rights to counsel and, if the child and his parents, guardian, or person exercising custodial control are unable to obtain counsel, shall appoint counsel for the child and, unless specified to the contrary by other provisions of KRS Chapters 600 to 645, may appoint counsel for the parents, guardian, or person exercising custodial control;

(2) Explain the right against self-incrimination by saying that the child, parents, relative, guardian, or custodian may remain silent concerning the charges against the child, and that anything said may be used against the child;

(3) Unless limited by statute, explain the right to confront anyone who has accused the child and to cross-examine that person on the allegations made against the child;

(4) Advise the child and his parents, guardian, or person exercising custodial control of the right to appeal from a determination of the court;

(5) Advise the child that these rights belong to him and may not be waived by his parents, guardian, or person exercising custodial control;

(6) Unless otherwise exempted in KRS Chapters 600 to 645, a child and *his* [~~its~~] parents or person exercising custodial control shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing; and

(7) The court may order parents to pay for counsel for the child if the court determines that the parent

has the ability to pay for such counsel.

Section 19. KRS 610.070 is amended to read as follows:

(1) All cases involving children brought before the court shall be granted a speedy hearing and shall be dealt with by the court without a jury [~~except that a trial by jury may be had in accordance with the provisions of KRS 610.010(8)~~].

(2) The hearings shall be conducted in a formal manner, unless specified to the contrary by other provisions of KRS Chapters 600 to 645.

(3) The general public shall be excluded and only the immediate families or guardians of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed to by the child and his attorney may be admitted to the hearing. Witnesses shall be admitted to the hearing only for the duration of their testimony.

Section 20. KRS 610.080 is amended to read as follows:

Juvenile proceedings shall consist of two (2) distinct hearings, an adjudication and a disposition, which *shall* [~~may, upon motion of the child,~~] be held on separate days *unless the child waives the right to a formal predisposition investigation report and moves that the hearings be held the same day.*

(1) The adjudication shall determine the truth or falsity of the allegations in the *petition* [~~complaint~~] and shall be made on the basis of an admission or confession of the child[~~, parent, or person exercising custodial control or supervision~~] to the court or by the taking of evidence.

(2) Unless otherwise exempted, upon motion by any child brought before the court on a *petition* [~~complaint~~] under KRS 610.010(1)(a), (b), (c) or (d), the Rules of Criminal Procedure shall apply. All adjudications shall be supported by evidence beyond a reasonable doubt, unless specified to the contrary by other provisions of KRS Chapters 600 to 645. For actions under KRS 610.010(1)(e) the Kentucky Rules of Civil Procedure shall apply.

Section 21. KRS 610.100 is amended to read as follows:

(1) Unless there is a suitable prior disposition investigation report or unless waived by the child, before making disposition of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made, concerning the nature of the specific act complained of, and any surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation and everything that may pertain to his life and character. The investigation shall also include an inquiry into the home conditions, life and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation shall be reported in writing to the *court and to counsel for the parties three (3)* [~~judge five (5)~~] days prior to the child's dispositional hearing, and shall become a part of the record of the proceedings. *The child may waive the three-day requirement.* Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.

(2) The investigation shall be conducted by volunteer or salaried probation officers of the juvenile court or by a suitable public or private agency. The cabinet may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his county with the cabinet for the furnishings of such services.

(3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings.

Section 22. KRS 610.110 is amended to read as follows:

(1) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.

(2) At the disposition all information helpful in making a proper disposition, including oral and written reports, shall be received by the court in compliance with subsection (1) of this section and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports.

(3) The court shall notify the law enforcement agency of the child's county of residence and the law enforcement agencies where any offense was committed of the disposition of each case and of each child committed by the court who is placed in a residential treatment facility by the *cabinet* [~~department~~].

(4) *If* [~~Whenever~~] any court commits a child to the cabinet, *a child-caring facility or child-placing* [~~or whenever a juvenile court commits a child to any institution or~~] agency, the court shall cause to be transmitted to the cabinet, *facility* [~~institution~~] or agency a certified copy of the commitment order, together with a summary of the court's information concerning the child. A certified copy of the court order shall be proof of the authority of the cabinet, *facility* [~~institution~~] or agency to hold the child. Such certified order shall be sufficient authority for any law enforcement officer to take into custody any person named therein and deliver him to such a place as shall be directed by the cabinet, *facility* [~~institution~~] or agency given custody of him in the order.

(5) In placing a child on probation in a [~~family~~] home or boarding home, or in committing a child to a *child-caring facility* [~~private institution~~] or *child-placing* agency, the court shall as far as practicable select a home, *facility* [~~institution~~] or agency operated or governed by persons of a similar religious faith as the parents of the child.

(6) Upon motion of the child and agreement of the cabinet, the court may authorize an extension of commitment up to age twenty-one (21) for the purpose of permitting the cabinet to assist the child in establishing independent living arrangements if a return to the child's home is not in his best interest.

Section 23. KRS 610.120 is amended to read as follows:

(1) Except as otherwise provided by KRS Chapter 635, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be reviewed, continued, or terminated at any time prior to expiration on the court's own initiative or on motion by:

(a) A child who is affected by an order of juvenile session of district court;

(b) The family, custodian, guardian, or legal representative of such a child;

(c) The county attorney of the county in which the committing court presides; or

(d) Any other person having an interest in the welfare of the child.

(2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, the cabinet, any agency, *facility* [~~institution~~] or individual responsible for the supervision, care or treatment of the child, shall divulge and communicate such information regarding the child as the court may require.

Section 24. KRS 610.130 is amended to read as follows:

Unless otherwise exempted, an appeal to the circuit court may be taken as a matter of right from the juvenile session of the district court from dispositional orders under KRS 610.110. The appeal shall be taken in the manner provided in the Rules of *Criminal* [~~Civil~~] Procedure, and the circuit court shall, in the best interest of the child, hear such cases expeditiously.

Section 25. KRS 610.170 is amended to read as follows:

If it appears from the investigation required in KRS 610.100 or otherwise that the parent or other person exercising custodial control or supervision of any child, or the estate of any child, who has been found to fall within the purview of KRS Chapters 600 to 645 and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home, or in the care of a public or private *facility* [~~institution~~] or agency, or the cabinet, is able to contribute to the support of the child, the court shall, *if a petition has been filed,* enter an order requiring the parent or estate to pay a reasonable sum for the support, maintenance or education of the child. The order shall direct that the money be paid to the circuit clerk to be disbursed as ordered by the court or be paid to the person, *facility* [~~institution~~], agency or *cabinet* [~~department~~] to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may issue such orders necessary to compel payment of the sum due. The enforcement of a sentence imposed on a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court upon the failure of the parent to obey further orders of the court.

Section 26. KRS 610.180 is amended to read as follows:

A parent or other person exercising custodial control or supervision of a child is charged with the control of such child and shall have the power to exercise parental control and authority over such child. In any case where a child is *adjudicated a public offender* [~~found delinquent~~] and placed on probation, if the court finds at the hearing that the person having custody of such child has failed or neglected to subject him to reasonable parental control and authority, and that such failure or neglect is the proximate cause of the act or acts of the child upon which the *adjudication* [~~finding of delinquency~~] is based, the court may require such parent to enter into a recognizance with sufficient surety, in an amount of not more than five hundred dollars ($500), conditioned upon the faithful discharge of the conditions of probation of such child. If the child thereafter commits a second act and is by reason thereof *adjudicated a public offender* [~~found delinquent~~], or violates the conditions of probation, and the court finds at the hearing that the failure or neglect of such parent to subject him to reasonable parental control and authority or to faithfully discharge the conditions of probation of such child on the part of such parent, is the proximate cause of the act of the child upon which such second finding [~~of delinquency~~] is based, or upon which such child is found to have violated the conditions of his probation, the court may declare all or a part of the recognizance forfeited and the amount of such forfeited recognizance shall be applied in payment of any damages which may have been caused by such child, if there be such damages, otherwise, the proceeds therefrom, or part remaining after the payment of damages as aforesaid, shall be retained by the court to apply to any future damages resulting from the act or acts of said child before he reaches his eighteenth [~~(18th)~~] birthday, at which date the remaining proceeds shall be returned to the parent or guardian. The provisions of this section as it relates to failure or neglect of parents to subject a child to reasonable parental control and authority shall be in addition to and not in substitution for any other sections of *KRS Chapters 600 to 645* [~~this chapter~~] relating to failure or neglect to exercise such parental control or authority. The provisions of this section shall not apply to foster parents.

Section 27. KRS 610.190 is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest. The law relating to bail shall not be applicable to children detained in accordance with this chapter.

(2) When a child is taken into custody by a person other than a peace officer, [~~on a charge of committing a public offense,~~] such person shall as soon as possible place the child in the custody of a peace officer.

Section 28. KRS 610.200 is amended to read as follows:

(1) When a peace officer has taken or received a child into custody on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the *child is committed, the cabinet, and if the* parent is not available, then a relative, guardian, [~~or~~] person exercising custodial control or supervision of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for *taking* the *child into custody* [~~detention, and state the time and place of the detention hearing~~].

(2) Unless the nature of the offense or other circumstances are such as to indicate the necessity of *retaining* [~~keeping~~] the child in [~~secure~~] custody, the officer shall release the child to the custody of his parent *or if the child is committed, the cabinet; or if the parent is not available, then a relative, guardian, person exercising custodial control or supervision* or other responsible *person* [~~adult~~] upon the written promise, signed by such person, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted *forthwith* to the court *or court designated worker and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release* [~~forthwith~~].

(3) If the person fails to produce the child as agreed or upon notice from the court, a *summons* [~~petition~~], warrant, or *custody order* [~~both~~] may be issued for the apprehension of the person or of the child, or both.

(4) The release of a child pursuant to this section shall not preclude a peace officer from proceeding with a complaint against a child or any other person.

(5) If the child is not released, the peace officer shall contact the court designated worker who may:

(a) Release the child to his parents;

(b) Release the child to such other persons or organizations as are authorized by law;

(c) Release the child to either of the above subject to sated conditions; or

(d) Authorize retaining the child in custody for an additional period not to exceed twelve (12) hours. If the child is retained in custody, notice shall be given to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

Section 29. KRS 610.220 is amended to read as follows:

(1) *If an officer takes or receives a child into custody, the* [~~A~~] child may be *held* [~~detained~~] at a police station, secure *juvenile* detention facility, *juvenile holding facility,* intermittent holding facility, the offices of the court designated worker, or, as necessary, in a hospital or clinic for the following purposes:

(a) Identification and booking;

(b) Attempting to notify the parents or person exercising custodial control *or supervision* of the child, *a relative, guardian or other responsible person;*

(c) Photographing;

(d) Fingerprinting;

(e) Physical examinations, including examinations for evidence;

(f) Evidence collection, including scientific tests;

(g) Records checks; and

(h) Other inquiries of a preliminary nature.

(2) *A child may be held in custody* [~~Detention~~] pursuant to this section *for a period of time* [~~shall~~] not *to* exceed two (2) hours, unless *an* [~~specified to the contrary in other provisions of KRS Chapters 600 to 645, without permission for~~] extension *of time is granted* [~~of detention time~~]. Permission for *an* extension of [~~detention~~] time may be granted by the court, [~~or~~] trial commissioner, *or court designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody in facilities listed in subsection (1) of this section for the period of retention* [~~upon good cause shown as to the necessity therefor~~].

Section 30. KRS 610.250 is amended to read as follows:

If a decision is made by a court designated worker or by the court to release *an alleged status or public offender who has been placed in detention* [~~a child~~] subject to certain conditions prior to his detention hearing as authorized by KRS 610.280, the child may be *detained* [~~retained in custody~~] until the conditions for release, which shall be set forth in writing and shall become a part of the record in the case, have been met.

SECTION 31. A NEW SECTION OF KRS 610.250 TO 610.280 IS CREATED TO READ AS FOLLOWS:

The peace officer may divert the child from the formal court process and take the child to a court-approved center offering voluntary services to children and release the child without formal charges being filed, if the offense the child has allegedly committed under the provisions of KRS 610.010(1)(a):

(1) Is not a felony offense;

(2) The peace officer has received the permission of the parent or other responsible adult; and

(3) The peace officer has followed guidelines which the court has established for such release.

SECTION 32. A NEW SECTION OF KRS 610.250 TO 610.280 IS CREATED TO READ AS FOLLOWS:

(1) No child who is accused of committing a status offense shall be detained in any facility other than a secure juvenile detention facility.

(2) No child who is accused of committing a public offense or of being in contempt of court shall at any time be detained in any facility other than a secure juvenile detention facility or juvenile holding facility. The court may order the child to be detained in a secure juvenile detention facility or a juvenile holding facility, pending an appearnace before the court pursuant to KRS 610.280, based on an ex parte finding that the child's conduct or condition endangers his safety or welfare or that of the community. The finding shall be made following presentation to the court by the court designated worker of information concerning the nature of the offense, the child's background and history and other information relevant to the child's conduct or condition. Presentation and approval may be made by telephone. If the child is not released at or before the twelve (12) hours of retention end, the court designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian or other responsible adult.

Section 33. KRS 610.280 is amended to read as follows:

(1) *(a) If* [~~When~~] a child is detained for the alleged commission of *a public* [~~an~~] offense [~~as provided in KRS 610.010(1)(a)~~] and not released, a hearing shall be held as soon as practical, but not to exceed seventy-two (72) hours, exclusive of weekends[~~;~~] and holidays, of the commencement of detention.

(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed forty-eight (48) hours, exclusive of weekends and holidays, of the commencement of detention.

(2) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as *in* a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof [~~and it shall be by a preponderance of the evidence,~~] and if it should fail to establish [~~such~~] probable cause, the child shall be released and the complaint *or petition* dismissed unless the court determines further detention is necessary to assure [~~the safety of the child, protection of the community, or~~] the appearance of the child in court *on another pending case*; and

(b) In determining detention [~~for offenses provided in KRS 610.010(1)(a)~~], the court shall consider the seriousness of the alleged offense; the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the *alleged* [~~original~~] offense; the child's prior record, if any; and whether there are *other* charges pending against the child [~~in another jurisdiction~~].

(3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention [~~and the nature of the detention~~].

Section 34. KRS 610.290 is amended to read as follows:

(1) Unless a hearing is held and the necessity for detention properly established, the child shall be released to the custody of his parents, *person exercising custodial control or supervision or other* [~~or other~~] responsible adult pending further disposition of the case. A child shall have a right to counsel at his detention hearing determining his right to freedom pending the disposition of his case, and his parents, [~~or other responsible~~] person *exercising custodial control or supervision or other responsible adult* shall have a right to attend the hearing if such attendance will not *unnecessarily* [~~necessarily~~] delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the circuit court.

(2) Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, [~~guardian, or other~~] person exercising custodial control or supervision *or other responsible adult* shall be given written notice of the time and place of the *adjudicatory* [~~adjudicative~~] hearing concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 35. KRS 610.300 is amended to read as follows:

(1) Physical evidence shall be obtained and utilized in the investigation of public offenses involving children in the same manner as it is obtained and utilized in the investigation of public offenses involving adults.

(2) All records and physical evidence so obtained shall be surrendered to the court upon motion for good cause shown or upon elimination of the child as a suspect in the case.

(3) The court shall upon receipt of physical evidence, return any evidence, which is not contraband *and* [~~or~~] is not needed for further prosecution, to its lawful owner.

Section 36. KRS 610.310 is amended to read as follows:

(1) When the health or physical condition of any child before the juvenile court requires it, the court may order the child to be placed in a public or private hospital or institution for treatment or care. In order to ascertain the physical condition of a child, the court may cause the child to be examined by a health officer or children's clinic or any reputable physician who will conduct the examination.

(2) The court may order or consent to necessary medical treatment, including surgical procedures, except for the purpose of abortion, electroshock therapy or psychosurgery as provided in KRS Chapter 645, or sterilization, after a hearing conducted to determine the necessity of such treatment or procedure. Reasonable notice, taking into account any emergency circumstances, shall be provided to the parents, guardian or *person exercising custodial control or supervision* [~~custodian~~] of the child to enable them to attend the hearing.

Section 37. KRS 610.320 is amended to read as follows:

(1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."

(2) No probation officer, nor employe of a probation officer, shall, without the consent of the district judge sitting in juvenile session divulge or communicate to any persons other than the court, an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the district judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, *or* to another probation officer having a direct interest in the record or social history of the child[~~, or to a representative of any public or private social agency,~~

~~institution, hospital or church having a direct interest in the record or social history of the child~~].

(3) All *law enforcement* [~~police~~] records regarding children who have not reached their eighteenth [~~(18th)~~] birthday shall not be opened to scrutiny by the public. However, such *law enforcement* [~~police~~] records shall be made available to the child, family, guardian or legal representative of the child involved. Such records shall also be made available to the court, probation officers, *or* representatives of the cabinet[~~; or to a representative of any public or private social agency, institution, hospital or church having a direct interest in the record or social history of the child~~].

(4) This section shall not relieve the probation officer or *peace* [~~police~~] officer from divulging such facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of such records for use in such trial or proceedings.

Section 38. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635, or 645, but not KRS *Chapters* [~~Chapter~~] 620 or 640, may petition the court for the expungement of his juvenile court record. He shall be informed of such right at the time of adjudication. The court on its own motion, or on the motion of a probation officer of the court or of a representative of the cabinet or any other interested person, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. Such petition shall be filed or such court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the cabinet for human resources or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any such records in the custody of any other agency or official, including *law enforcement* [~~police~~] records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the cabinet or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); *and*

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred, and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 39. KRS 610.350 is amended to read as follows:

(1) In proceedings in the juvenile session of the district court, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition. No public officer shall be entitled to receive any fee from the service of process or for attendance in court in any such proceedings. All other persons acting under orders of the court may be paid[~~,~~] for service of process and attendance as witnesses. The payments for fees provided by law for like services in civil cases in the circuit court are to be made out of the county treasury. The county or state may compensate any officer or person in the amount prescribed by law for the *transportation of a child to a place where he will be detained or placed* [~~detention~~] or *the* return of any *child* [~~person~~] to the jurisdiction of the court, and funds for this purpose may be appropriated and paid by

the fiscal court.

(2) For the purpose of paying salaries and expenses necessary to carry out the purposes of KRS Chapters 600 to 645, the fiscal court of any county, or urban county council of an urban county government, may levy taxes and make appropriations[~~,~~] within constitutional limitations. The legislative body of any city also is authorized to appropriate funds to assist the county in carrying out the purposes of KRS Chapters 600 to 645, including providing facilities for custody and care of children coming within the purview of KRS Chapters 600 to 645.

Section 40. KRS 610.990 is amended to read as follows:

(1) Any person who *intentionally* violates any of the provisions of this chapter, other than *Section 32 of this Act* [~~KRS 610.230~~], shall be guilty of a Class B misdemeanor.

(2) Any person who *intentionally* violates *Section 32 of this Act* [~~KRS 610.230~~] shall be guilty of a Class A misdemeanor.

Section 41. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the *biological* [~~natural~~] family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

(a) Removed from his parents or person exercising custodial control or supervision and subsequently committed to the cabinet; and

(b) Placed in a foster [~~family~~] home or private child-caring *facility* or child-placing *agency* [~~facility~~] but remains under the supervision of the cabinet;

(5) "Local citizen review board" means a board which provides periodic permanency reviews of children committed to the cabinet *under this chapter* [~~and in foster care~~];

(6) "Permanence" means a relationship between a child and an adult which *is intended to* [~~will~~] last a lifetime, providing commitment and continuity in the child's relationships and [~~having~~] a sense of belonging;

(7) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(8) "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(9) "State citizen review board" means a board created by KRS 620.310.

SECTION 42. A NEW SECTION OF KRS 620.020 TO 620.030 IS CREATED TO READ AS FOLLOWS:

A finding of jurisdiction under this chapter shall not necessarily preclude a finding of jurisdiction under KRS Chapters 625, 630, or 635; however, jurisdiction under this chapter shall take precedence. No child shall be released from the jurisdiction of the court under this chapter if concurrent complaints under KRS Chapters 630 or 635 are pending.

Section 43. KRS 620.030 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency[~~,~~] or the Kentucky state police;[~~,~~] the cabinet or its designated representative;[~~,~~] the commonwealth's attorney or the county attorney;[~~,~~] by telephone or otherwise. *If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky state police. Nothing in this section shall relieve individuals of their obligations to report.*

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor, dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, *regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person,* or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky state police or the *commonwealth's* [~~commonwealth~~] or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

Section 44. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report *alleging abuse or neglect by a parent, guardian or person exercising custodial control or supervision,* pursuant to KRS 620.030(1) or (2), the *recipient* [~~county attorney, the commonwealth's attorney, the local law enforcement agency or Kentucky state police, if they are the recipients~~] of the report[~~,~~] shall forthwith notify the cabinet or its designated representative, *the local law enforcement agency or Kentucky state police* and the *commonwealth's* [~~commonwealth~~] or county attorney of the receipt of the report. *The cabinet* [~~and its contents and, if the report alleges abuse, they~~] shall investigate the matter *immediately* and within forty-eight (48) hours, *exclusive of weekends and holidays,* make a written report to the *commonwealth's* [~~cabinet or its designated representative and the commonwealth~~] or county attorney *and the local enforcement agency or Kentucky sate police* concerning the action which has been taken on the matter. *If the report alleges abuse or neglect by someone other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall forthwith notify the commonwealth's or county attorney and the local law enforcement agency or Kentucky state police.*

(2) *Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative.* [~~Upon the receipt of a report of alleged abuse~~

~~pursuant to KRS 620.030(1) or (2) the cabinet or its designated representative, if it is the recipient of the report, shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and shall investigate the matter and within forty-eight (48) hours make a written report to the local law enforcement agency or the Kentucky state police and the county or commonwealth's attorney concerning the action which has been taken on the matter.~~] The cabinet [~~also~~] shall investigate reports of alleged dependency *not later than forty-eight (48) hours after receipt of the report* [~~and neglect~~] but need not notify the local law enforcement agency or Kentucky state police or county attorney or commonwealth's attorney of such reports.

(3) (a) If, after receiving the report, the law enforcement officer, the cabinet or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.[~~;~~]

(b) In the event a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child without court order provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.[~~;~~]

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision, if the officer has reasonable cause to believe that there exists an imminent danger. The officer *or the person to whom the officer entrusts the child* shall, within twelve (12) hours of taking the child into such protective custody, request the court to issue an emergency custody order.[~~;~~]

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

Section 45. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

(2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in district or circuit court regarding a dependent, neglected or abused child.

(3) Upon receipt of a report of an abused, [~~or~~] neglected *or dependent* child pursuant to this *chapter* [~~section~~], the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(4) All information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this *chapter* [~~section~~], shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect or abuse, provided that in such cases names of informants shall be withheld unless ordered by the court;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, corrections personnel or law enforcement agencies, including the county attorney's office, that have a legitimate interest in the case;

(e) A non-custodial parent when the dependency, neglect or abuse is substantiated; or

(f) Those persons so authorized by court order.

(5) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having performed the act. Nothing herein shall limit liability for negligence.

Section 46. KRS 620.060 is amended to read as follows:

(1) The court for the county where the child is present may issue an ex parte emergency custody order when it appears to the court that there are reasonable grounds to believe, as supported by affidavit or by recorded sworn testimony, that the child will be dependent, neglected or abused if returned[~~,~~] to[~~,~~] or left in the custody of, his parent or other person exercising custodial control or supervision. Custody may be placed with a relative taking into account the wishes of the custodial parent or any other appropriate person or agency including the cabinet

(2) [~~A finding of jurisdiction under this chapter shall not necessarily preclude a finding of jurisdiction under KRS Chapter 625, 630, or 635; however, jurisdiction under this chapter shall take precedence. No child shall be released from the jurisdiction of the court under this chapter if concurrent complaints under KRS Chapter 630 or 635 are pending.~~

~~(3)~~] An emergency custody order shall be effective no longer than seventy-two (72) hours, exclusive of weekends and holidays, unless there is a temporary removal hearing with oral or other notice to the county attorney and the parent or other person exercising custodial control or supervision of the child, to determine if the child should be held for a longer period. The seventy-two (72) hour period also may be extended or delayed upon the waiver or request of the child's parent or other person exercising custodial control or supervision.

(3)[~~(4)~~] Any person authorized to serve process shall serve the parent or other person exercising custodial control or supervision with a copy of the emergency custody order. If such person cannot be found, the sheriff shall make a good faith effort to notify the nearest known relative, neighbor, or other person familiar with the child.

(4)[~~(5)~~] Within *seventy-two (72)* [~~twenty-four (24)~~] hours of the [~~issuance of an emergency custody order or the~~] taking of a child into custody without the consent of his parent or other person exercising custodial control or supervision, a *petition* [~~complaint~~] shall be filed pursuant to this chapter.

(5)[~~(6)~~] Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules of Criminal Procedure.

Section 47. KRS 620.070 is amended to read as follows:

(1) A dependency, neglect or abuse action may be commenced by the filing of a *petition* [~~complaint~~] by any interested person in the juvenile session of the district court.

(2) After a *petition* [~~complaint~~] has been filed, the clerk of the court shall issue and the sheriff or other authorized agent shall serve a copy of the *petition* [~~complaint~~] and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be *served on* [~~issued to~~] the nearest known adult relative.

(3) The summons shall include an explanation of the importance of the *petition* [~~complaint~~] and an

explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time and place when the parent or other person exercising custodial control or supervision is to appear before the court.

Section 48. KRS 620.080 is amended to read as follows:

(1) Unless waived by the child and his parent or other person exercising custodial control or supervision, a temporary removal hearing shall be held:

(a) Within seventy-two (72) hours, excluding weekends and holidays, of the time when an emergency custody order is issued or when a child is taken into custody without the consent of his parent or other person exercising custodial control or supervision; and

(b) In cases commenced by the filing of a *petition* [~~complaint~~], within ten (10) days of the date of filing.

(2) At a temporary removal hearing, the court shall determine whether there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to or left in the custody of his parent or other person exercising custodial control or supervision even though it is not proved conclusively who has perpetrated the dependency, neglect or abuse. For good cause, the court may allow hearsay evidence. The Commonwealth shall bear the burden of proof by a preponderance of the evidence and if the Commonwealth should fail to establish same, the child shall be released to or retained in the custody of his parent or other person exercising custodial control or supervision.

Section 49. KRS 620.090 is amended to read as follows:

(1) If, after completion of the temporary removal hearing, the court finds there are reasonable grounds to believe the child is dependent, neglected or abused, the court shall issue an order for temporary removal and shall grant temporary custody to the cabinet or other appropriate person or agency. *Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision if known.* The order shall state the specific reasons for removal and show that alternative less restrictive placements and services have been considered. The court may recommend a placement for the child.

(2) In placing a child *under an order of* [~~following a~~] temporary *custody* [~~removal~~], the cabinet or its designee shall use the least restrictive appropriate placement available. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision if known. The child may also be placed in a facility or program operated or approved by the cabinet, including a foster home,[~~;~~] or any other appropriate available placement.

(3) If the court finds there are not reasonable grounds to believe the child is dependent, neglected or abused, or if no action is taken within seventy-two (72) hours, the emergency custody order shall be dissolved automatically and the cabinet or its designee shall return the child to the parent or other person exercising custodial control or supervision. A request for a continuance of the hearing by the parent or other person exercising custodial control or supervision shall constitute action precluding automatic dissolution of the emergency custody order.

(4) When the court issues a temporary order for the custody of a child, the court may *order that, within two (2) weeks, arrangements be made for the* [~~cause a~~] child to receive a thorough medical, visual, and dental examination[~~, within two (2) weeks~~] by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. The costs of the examination shall be paid by the cabinet.

(5) *The child shall remain in temporary custody with the cabinet for a period of time not to exceed forty-five (45) days from the date of the removal from his home. The court shall conduct the adjudicatory hearing and shall make a final disposition within forty-five (45) days of the removal of the child. The court may extend such time after making written findings establishing the need for the extension and after finding that the extension is in the child's best interest* [~~No temporary custody order shall be effective for more than twenty-one (21) days unless an adjudicatory hearing on the merits of the case is begun within the twenty-one (21) day period. The twenty-one (21) day period may be waived by the parent or other person exercising custodial control or supervision of the child or their attorney or the attorney for the child~~].

Section 50. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint [~~local~~] private counsel for the child to be paid for by the cabinet for finance and administration. *The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet for human resources, of the order appointing counsel.* The fee to be fixed by the court, shall not exceed five hundred dollars ($500) provided, however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision[~~,~~] if the parent is unable to afford counsel pursuant to KRS Chapter 31. *The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet for human resources, of the order appointing counsel.* The parent's counsel shall be provided by, or paid for, by the cabinet for finance and administration. The fee to be fixed by the court, shall not exceed five hundred dollars ($500) provided, however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250); and

(c) The court may, in the interest of justice, appoint separate counsel for a non-parent who exercises custodial control or supervision of the child, if such person is unable to afford counsel, pursuant to KRS Chapter 31. *The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet for human resources, of the order appointing counsel.* Counsel for such person shall be provided by, or paid for, by the finance and administration cabinet. The fee to be fixed by the court, shall not exceed five hundred dollars ($500) provided, however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250).

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal. [~~The full adjudicatory hearing shall be held within twenty-one (21) days of the temporary custody order unless the parent or other person exercising custodial control or supervision specifically waives the twenty-one (21) day limit.~~]

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Section 51. KRS 620.140 is amended to read as follows:

(1) In determining the disposition of all cases brought on behalf of dependent, neglected or abused children, the juvenile session of the district court, in the best interest of the child, shall have, but shall not be limited to, the following dispositional alternatives:

(a)[~~(1)~~] Informal adjustment of the case;

(b)[~~(2)~~] Protective orders, such as the following:

1.[~~(a)~~] Requiring the parent or any other person to abstain from any conduct abusing, neglecting or making the child dependent;

2.[~~(b)~~] *Placing* [~~That~~] the child [~~be placed~~] in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3.[~~(c)~~] Orders authorized by KRS 403.740 and 403.750.

(c)[~~(3)~~] Removal of the child to the custody of an adult relative, other person, or *child-caring* [~~child caring or placing~~] facility *or child-placing agency,* taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child.

(d)[~~(4)~~] Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his attainment of the age eighteen (18). The court, in its discretion, upon motion of the child *and with the concurrence of the cabinet,* may authorize an extension of commitment up to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs *or to permit the cabinet to assist the child in establishing independent living arrangements.*

(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

SECTION 52. A NEW SECTION OF KRS 620.150 TO 620.160 IS CREATED TO READ AS FOLLOWS:

Any party aggrieved by a proceeding under KRS 610.010(1)(e), may appeal from the juvenile court to the circuit court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The circuit court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his parents, guardian, or other person party to the appeal.

Section 53. KRS 620.160 is amended to read as follows:

Upon attaining majority [~~or becoming emancipated~~], a *person who was the subject of an action under this chapter* [~~child~~] may make a motion for the sealing of records relating to a *petition* [~~complaint~~] filed under this chapter. In its discretion, the court may order the record unsealed for good cause shown.

Section 54. KRS 620.170 is amended to read as follows:

(1) The cabinet may accept custody of a child who is voluntarily committed to the cabinet by the child's parent, *guardian or other person having legal custody.* However, the cabinet shall refuse to accept any child on a voluntary commitment unless adequate facilities, funds, and resources are available to care for the child, and the secretary finds that commitment would be in the best interest of the child.

(2) As a condition of any voluntary commitment, the cabinet may enter into an agreement with the parent, *guardian or other person having legal custody* [~~or person exercising custodial control or supervision~~] of the child consenting to the commitment to pay an agreed sum for the care and treatment of the child. The sum shall be determined by the needs of the child and by the ability of the parent, *guardian or other person having legal custody* [~~or other person exercising custodial control or supervision~~] to pay.

(3) In the case of voluntary commitment, the cabinet may expend funds necessary to give the child all services available to any committed child including, but not limited to, diagnosis, treatment, foster care, day care, [~~institutional~~] care and treatment *in a facility,* and necessary medical, psychological and psychiatric care.

(4) Any person who has consented to a child's voluntary commitment may request the release of the child in writing addressed to the cabinet. The cabinet shall within ten (10) days release the child, or, if in the opinion of the cabinet it would be in the best interest of the child to remain in the custody of the cabinet, a *petition* [~~complaint~~] shall be filed in the court of the county of residence of the child as provided in KRS 620.030 to 620.050.

(5) If, following a hearing on the matter, the court determines that the child can no longer benefit from those services offered by the cabinet, or that the parent, *guardian or other person having legal custody of the child* [~~or person exercising custodial control or supervision~~] is capable of providing proper care, the child may be returned at once to the care of his parent, *guardian or other person having legal custody of the child* [~~or other person exercising custodial control or supervision,~~] or to *another* [~~a third~~] person mutually agreed upon.

Section 55. KRS 620.180 is amended to read as follows:

(1) The cabinet may promulgate administrative regulations to implement the provisions of this chapter. The cabinet may also promulgate administrative regulations pursuant to the requirements of Public Law 96-272 as to the maximum number of children who at any time during a fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with the steps to be taken to achieve such goal.

(2) The cabinet shall promulgate administrative regulations to provide the following:

(a) The method used to periodically review the status of children placed in foster family homes which shall include, but not be limited to, the following:

1. Within *five (5) days, exclusive of weekends and holidays,* [~~one (1) week~~] of the temporary removal hearing provided for in this chapter, a case conference shall be held on all children placed with the cabinet for the purpose of establishing a specific treatment plan which may include preventive and reunification services for the child and his parent or other person exercising custodial control or supervision. Additional case conferences and reviews shall be held as appropriate, but shall be held at least every six (6) months. The parent or other person exercising custodial control or supervision and his counsel, if any, shall have the right to be present at and participate in such conferences. *The child; the child's attorney, if any; the parent or other person exercising custodial control or supervision and his attorney of record, if any; and the county attorney shall be notified of, and may be present at and participate in such conferences* [~~Notice of such conferences shall be given to the parent or other person exercising custodial control or supervision and his attorney of record, if any. The county attorney may attend but shall not be required to participate in conference and reviews under this section~~];

2. On-going case work and supportive services shall be provided as indicated to best meet the needs of the child as established by the review and planning process; and

3. There may be procedures for providing for appropriate visitation between the parents and the child based on the needs of the child; *and*

(b) The procedures for reporting to a committing court the status and plans for children committed to the cabinet as dependent, neglected or abused and placed in foster family homes.

Section 56. KRS 620.190 is amended to read as follows:

(1) There shall be established within each judicial district [~~court region~~] a foster care citizen review board to be appointed by the chief [~~regional~~] district judge. The chief [~~regional~~] district judge may authorize the creation of additional local citizen review boards as needed.

(2) [~~Where established, members of local citizen review boards shall be appointed by the chief regional district judges of the districts involved.~~

~~(3) Where established,~~] Each local citizen review board shall consist of not less than three (3) nor more than five (5) members and shall be appointed according to the following guidelines:

(a) At least two (2) members of each local citizen review board shall be chosen from among the following professions: law, medicine, psychology, social work, and education, and shall have a demonstrated interest in foster care or child welfare. At least one (1) member shall have demonstrated interest in foster care or child welfare;

(b) All members of each local citizen review board shall, as far as practicable, be representative of the socioeconomic, racial and ethnic composition of the area served;

(c) Employes of the cabinet shall be prohibited from serving on the local citizen review board; and

(d) Of the initial appointees to each local citizen review board, the chief [~~regional~~] district judges shall designate one (1) member to serve a term of one (1) year, not less than one (1) nor more than two (2) members to serve a term of two (2) years, and not less than one (1) nor more than two (2) members to serve a term of three (3) years. All subsequent board members shall serve a term of three (3) years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The term of each member shall expire on August first of the appropriate year. Members may be reappointed and shall continue to serve until a successor is appointed.

(3)[~~(4)~~] Local citizen review board members may be removed for nonparticipation or other cause.

(4)[~~(5) Where established,~~] Each local citizen review board shall annually elect a chairman and vice-chairman to serve in the absence of the chairman.

(5)[~~(6) Where established,~~] Each local citizen review board shall meet, at a place designated by the chief [~~regional~~] district judge, as often as is deemed necessary to carry out the duties of the board. The local citizen review board shall meet no less than four (4) times annually.

Section 57. KRS 620.210 is amended to read as follows:

(1) Training shall be established and approved by the state citizen review board or its staff as provided by KRS 620.320.

(2) During the training session, each local citizen review board member shall promise by oath given by the chief [~~regional~~] district judge or a member of the court of justice to keep confidential the information reviewed by the board and its actions and recommendations in individual cases pursuant to the authority mandated to other officers of the court in KRS Chapter 522. Members of the local citizen review boards shall be subject to the same penalties as officers of the court pursuant to KRS Chapter 522.

Section 58. KRS 620.220 is amended to read as follows:

(1) The clerk of the court shall forward to the *chairman of the* local citizen review board, with jurisdiction for the county from which the child was committed, a copy of each order committing the child to the cabinet within fourteen (14) days of the commitment date.

(2) When a child is voluntarily committed to the cabinet, the cabinet shall forward a copy of the placement agreement to the *chairman of the* local citizen review board with jurisdiction for the county from which the child was committed within fourteen (14) days of the time the child is placed.

Section 59. KRS 620.230 is amended to read as follows:

(1) Within thirty (30) days after the commitment date of the child, the cabinet shall file a case permanency plan for the child with the court and the *chairman of the* local citizen review board [~~where established~~] with jurisdiction for the county from which the child was committed.

(2) The case permanency plan shall include, but need not be limited to:

(a) A concise statement of the reasons why the child is in foster care;

(b) A statement of the actions which have been taken with regard to the child to the date of the plan;

(c) A statement of the proposed actions which may be taken or are contemplated with regard to the child during the next six (6) months[;] and during the entire duration of the time the child is under the commitment to the cabinet;

(d) Contemplated placements for the child;

(e) If the child is placed outside [~~of~~] the home, reasons why the child cannot be protected adequately in the home, the harms the child may suffer if left in the home, factors which may indicate when the child can be returned to the home, and efforts the cabinet or others are making to return the child to the home;

(f) If the child is placed outside [~~of~~] the home, the steps that the cabinet will take to minimize the harm to the child as a result of the action, both at the time of removal and on a *long-term* [~~long term~~] basis;

(g) A description of the type of home, child-caring facility, [~~or~~] child-placing agency or *facility* [~~institution~~] in which the child is to be placed or has been placed and a statement why the placement is appropriate for the child, including but not limited to:

1. Age;

2. Educational needs;

3. Medical needs;

4. Emotional needs; and

5. Relationship with parents;

(h) If the placement is outside the child's original county of residence, documentation that no closer placement is appropriate or available, and the reasons why the placement made was chosen;

(i) A description of the services for the child and his family to be provided or arranged by the cabinet to facilitate the return of the child to his own home or to another permanent placement;

(j) A list of objectives and specific tasks, together with specific time frames for each task, for which the parents have agreed to assume responsibility, including a schedule of regular visits with the child;

(k) A projected schedule of time intervals by which each of the services, objectives, and tasks outlined in the case permanency plan should be accomplished and a schedule of time intervals which have already been accomplished or are in the process of accomplishment;

(l) If the child is to remain at home, a description of the potential harm which could befall the child and measures that are being taken to prevent or minimize such harm; and

(m) If the child is to remain at home, reasons why he cannot be placed in foster care or why such care is not needed.

Section 60. KRS 620.240 is amended to read as follows:

The cabinet shall file for each child a case progress report at least once every six (6) months with the court and the local citizen review board [~~where established~~] with jurisdiction for the county from which the child was committed. The *first* case progress report *after commitment* shall *be mailed to the chairman of the appropriate board and subsequent case program reports shall be provided to the review board within the case file. The case progress report shall* include but is not limited to:

(1) The length of time the child has been committed to the cabinet;

(2) The number, location and date for each placement during his total period of commitment;

(3) A description of the services and assistance provided or arranged by the cabinet to the parents since the last case permanency plan or case progress report, and results achieved;

(4) A description of the efforts and progress of the parents since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parents' communication with the child;

(5) The barriers, familial and institutional, [~~if any,~~] to returning the child home or ending the commitment of the child to the cabinet and services that are not currently available in the community;

(6) An evaluation of the child's current placement and services provided to the child;

(7) Recommendations for necessary services required to terminate commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement;

(8) A timetable for the child's return home or other permanent placement; and

(9) *If* [~~Where~~] return home is not recommended, a specific recommendation for a permanent placement, including termination of parental rights if appropriate. If continued foster care is recommended, an explanation as to why another permanent placement is not appropriate.

Section 61. KRS 620.270 is amended to read as follows:

(1) The local citizen review board shall review each child committed to the cabinet who was committed from the county or counties which the board serves. The review shall occur *at least* once every six (6) months until the child is no longer committed to the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, and case progress reports submitted by the cabinet and such other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board may feel should be explored with regard to the best interests of the state or of the child.

Section 62. KRS 620.990 is amended to read as follows:

(1) Any person *intentionally* [~~knowingly and willfully~~] violating the provisions of this chapter [~~or any person knowingly and willfully permitting, assisting, or encouraging the violation of the provisions of this chapter~~] shall be guilty of a Class B misdemeanor.

(2) The use of information by public officers and by defense counsel for purposes of investigation and trial of cases or other proceedings under the provisions of KRS Chapters 600 to 645 or in any criminal prosecution or appeal shall not constitute a violation of this chapter.

Section 63. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of . . . . . , a child." The petition may be filed by a parent.

(2) [~~No petition may be filed under this chapter prior to five (5) days after the birth of the child.~~

~~(3)~~] The petition for the voluntary termination of parental rights *shall* [~~under this section may~~] be filed in *the* [~~any~~] circuit court *of the* [~~in any~~] county where *the petitioner* [~~a party to the action~~] resides or is found and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex, [~~and~~] date of birth and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child.

(3) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

[~~(4) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing. The circuit court shall require notice to be served upon the cabinet in any case where a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency.~~

~~(5) All hearings shall be held before the circuit court, privately for the purpose of determining the facts.~~

~~(6) The best interest of the child shall be considered paramount.~~

~~(7) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.~~]

SECTION 64. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) The only party to an action for voluntary termination of parental rights shall be the parent seeking termination, but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the cabinet for human resources receives custody of the child, the guardian ad litem shall be paid by the finance and administration cabinet.

SECTION 65. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing.

(2) The circuit court shall require notice to be served upon the local representative of the cabinet in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency unless the cabinet has approved the placement.

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the circuit court privately for the purpose of determining the facts.

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interest of the child shall be considered paramount.

(6) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

SECTION 66. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) If the circuit court determines that parental rights are to be voluntarily terminated in accordance with the provisions of this chapter, it shall make an order terminating all parental rights and obligations of such parent and releasing the child from all legal obligations to such parent and vesting care and custody of the child in such person, agency or cabinet as the court believes is best qualified to receive custody.

(2) Upon consent by the cabinet for human resources, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency, or child-caring facility licensed by the cabinet or in another person provided all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily.

SECTION 67. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

Following the entry of an order voluntarily terminating parental rights in a child, the child shall retain the right to inherit from his parent under the laws of descent and distribution until the child is adopted.

SECTION 68. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) Any order resulting from the voluntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request. Such order may contain a statement of authority to place the child for adoption.

(2) The files and records of the circuit court, excluding the name or other identifying information of a prospective adoptive parent, during proceedings for voluntary termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet, except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person other than representatives of the cabinet without a written order of the court or as authorized by the provisions of KRS 199.011 et seq.

(3) No person having charge of any voluntary termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, facts necessary in order to secure a court order for a copy of the termination order to be used in an adoption proceeding may be disclosed. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked.

SECTION 69. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

Any order for the voluntary termination of parental rights shall be conclusive and binding on all parties.

Section 70. KRS 625.050 is amended to read as follows:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ________________, a child."

(2) The petition *shall* [~~may~~] be filed in the circuit court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(3)[~~(2)~~] Proceedings for involuntary termination of parental rights may be *initiated* [~~instituted~~] upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or *Commonwealth's* [~~commonwealth~~] attorney or parent.

(4)[~~(3)~~] The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and *mailing address* [~~identity~~] of each petitioner;

(b) Name, sex, [~~and~~] date of birth *and place of residence* of the child [~~or children~~];

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of person, *cabinet* or agency having custody of the child;

(g) Name and identity of the person, *cabinet* or authorized agency to whom custody is sought to be transferred;

(h) Statement that the *person, cabinet or* agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(5)[~~(4)~~] No petition may be filed under this section prior to five (5) days after the birth of the child.

Section 71. KRS 625.060 is amended to read as follows:

(1) In addition to the child, the following shall be the parties in an action for *involuntary* termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner; and

(c) The biological parents, if known and if their rights have not been previously terminated. *It shall not be necessary to make the putative father a party if he is exempted by Section 72 of this Act.*

(2) Any party who is not the petitioner shall be a *respondent* [~~defendant~~].

SECTION 72. A NEW SECTION OF KRS CHAPTER 625.050 TO 625.060 IS CREATED TO READ

AS FOLLOWS:

(1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exist:

(a) He is known and voluntarily identified by the mother by affidavit;

(b) Prior to the entry of a final order in a termination proceeding, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;

(c) He has caused his name to be affixed to the birth certificate of the child;

(d) He has commenced a judicial proceeding claiming parental right;

(e) He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(f) He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

(2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

Section 73. KRS 625.070 is amended to read as follows:

(1) In any action for *involuntary* termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky Rules of Civil Procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and [~~has been~~] filed *in the record* [~~with the petition for termination of parental rights~~], or an order terminating parental rights has been entered by a circuit court of competent jurisdiction.

(3) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, service upon a child committed to the cabinet shall be made upon the cabinet.

Section 74. KRS 625.080 is amended to read as follows:

In any [~~voluntary or~~] involuntary action for termination of parental rights:

(1) The circuit court shall conduct a private hearing. An official stenographic *or mechanical* record shall be made of the proceedings *and retained for a period of five (5) years.* The court *shall* [~~will~~] make findings of fact and conclusions of law to support its judgment;

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed [~~as~~] to represent the best *interests* [~~interest~~] of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars ($500), to be paid by the finance and administration cabinet. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best *interests* [~~interest~~] of the child. In its discretion, the circuit court may interview the child in private, but a record of the interview *shall* [~~will~~] be made, which, in the discretion of the court, may be sealed to be used only by an appellate court;

(3) The parents have the right to legal representation *in involuntary termination actions.* If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation, the circuit court shall determine if said parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the circuit court so finds, the circuit court shall inform the parent;

and, [~~if notification is possible, of his right to counsel.~~] upon request, or if it appears reasonably necessary in the interest of justice, the circuit court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided by, or paid for, by the finance and administration cabinet *a fee* to be set by the court and not to exceed five hundred dollars ($500);

(4) [~~The circuit court may be convened at any time wherever the judge thereof may be found within the circuit, respective of the regular term for the purpose of terminating parental rights and the~~] Proceedings *under this chapter* shall be expedited and completed as soon as practicable;

[~~(5) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, the boarding home or foster parent shall not be served with summons on behalf of the child; and~~

~~(6) If the parental rights of all living parents of the child are terminated, the circuit court shall declare the child to be a ward of the state, and vest the care, custody and control of the child in the cabinet, or in any licensed child-caring or child-placing agency or institution. If the child has a parent or parents whose rights have not been terminated by the proceedings, the child shall not be declared a ward of the state, unless the voluntary consent of the other parent or parents has been obtained or unless in the same proceeding the circuit court shall find that the other parent has filed a disclaimer of paternity or has voluntarily petitioned the court to terminate his parental rights.~~]

Section 75. KRS 625.090 is amended to read as follows:

(1) The circuit court may involuntarily terminate all parental rights of a parent of a *named* child, if the circuit court finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused or neglected child by the circuit court in this proceeding and that termination would be in the best interest of the child.[~~; provided, however, that~~] No termination of parental rights shall be ordered unless the circuit court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than six (6) months;

(b) That the parent has inflicted or allowed to be inflicted upon the child by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) In determining the best interest of the child and the existence of a ground for termination, the circuit court shall consider *the following factors* [~~all relevant factors including~~]:

(a) Emotional illness, mental illness or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing *agency* or child-caring *facility* [~~agency~~], whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning such services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The efforts and adjustments the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(3) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

(4) Upon the conclusion of proof and argument of counsel, the circuit court shall enter findings of fact, conclusions of law and a decision as to each parent-respondent either:

(a) Terminating the right of such parent; or

(b) Dismissing the petition and in such event stating whether the child shall be returned to the parent or shall remain in the custody of the state.

Section 76. KRS 625.100 is amended to read as follows:

(1) If the circuit court determines that [~~all parties with~~] parental rights *are* to *be* [~~the child under the law have either petitioned the court to have their parental rights~~] terminated [~~voluntarily or have had their rights terminated~~] involuntarily *in accordance with the provisions of this chapter, it shall enter* [~~by~~] an order [~~entered by a court of competent jurisdiction, and~~] that the termination of parental rights and *the* [~~their~~] transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter. *The order*[~~, it~~] shall *terminate* [~~make an order terminating~~] all parental rights and obligations *of such* [~~in the~~] parent [~~in whom they have existed,~~] and *release* [~~releasing~~] the child from all legal obligations to *such parent* [~~his parents,~~] and *vest care and* [~~transferring such~~] custody *of the child in such* [~~to some other~~] person, [~~or authorized~~] agency or cabinet as [~~may, in the opinion of~~] the court *believes*[~~, be~~] best qualified.

(2) Upon consent by the cabinet for human resources, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person, if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is unrelated to the child, a grant of custody shall be made only with the written approval of the secretary or his designee [~~to receive custody, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted. Such order may contain the power for the cabinet, or authorized agency to consent to the adoption of such child.~~

~~(2) Any order resulting from the voluntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference whatsoever to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner~~

~~and to the cabinet upon request if the cabinet is not a petitioner. Such order may contain a statement of authority to place the child for adoption.~~

~~(3) Where parental rights have been terminated pursuant to this section all legal relationships between the parents and child shall cease to exist, the same as if the relationship of parent and child had never existed, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted.~~

~~(4) The files and records of the circuit court during proceedings for termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court; provided, that the representatives of the cabinet shall have access to the papers and records of the case without a written order of the court. No person having charge of any termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, this provision is not meant to prohibit the disclosure of facts necessary in order for a person to secure a court order for a copy of the termination order to be used in an adoption proceeding. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked~~].

SECTION 77. A NEW SECTION OF KRS CHAPTER 625.100 TO 625.110 IS CREATED TO READ AS FOLLOWS:

Following the entry of an order involuntarily terminating parental rights in a child, the child shall retain the right to inherit from his parent under the laws of descent and distribution until the child is adopted.

SECTION 78. A NEW SECTION OF KRS CHAPTER 625.100 TO 625.110 IS CREATED TO READ AS FOLLOWS:

(1) Any order resulting from the involuntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request if the cabinet is not a petitioner. Such order may contain a statement of authority to place the child for adoption.

(2) The files and records of the circuit court, excluding the name or other identifying information of a prospective adoptive parent, during proceedings for involuntary termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person other than representatives of the cabinet without a written order of the court or as authorized by the provisions of KRS 199.011 et seq.

(3) No person having charge of any involuntary termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, facts necessary in order to secure a court order for a copy of the termination order to be used in an adoption proceeding may be disclosed. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked.

Section 79. KRS 625.110 is amended to read as follows:

[~~(1)~~] Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment or order of the circuit court involuntarily terminating parental rights in accordance with the Kentucky Rules of Civil Procedure [~~and Kentucky Supreme Court rules.~~

~~(2) Any order entered as a result of the voluntary termination of parental rights shall be conclusive and binding on all parties and no appeal may be taken from a judgment of voluntary termination~~].

Section 80. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding status offenders:

(1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for status offenders which reflect their individual needs;

(2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred; and

(3) Detention of status offenders in secure *juvenile* detention facilities should only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible.

Section 81. KRS 630.020 is amended to read as follows:

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

(1) Has been *an habitual* [~~a~~] runaway from his parent or person exercising custodial control or supervision of the child;

(2) Has not subjected himself to the reasonable control of his parent or guardian or school personnel or person exercising custodial control or supervision of the child; or

(3) Has been *an* [~~a~~] habitual truant from school.

Section 82. KRS 630.040 is amended to read as follows:

Any person taking a child into custody, with all reasonable speed, shall in this sequence:

(1) Deliver the child suffering from a physical condition or illness which requires prompt medical treatment to a medical facility or physician. Children suspected of having a mental or emotional illness shall be *evaluated* [~~placed for evaluation~~] in accordance with the provisions of KRS Chapter 645;

(2) Contact a court designated worker who *shall* [~~will~~] have the responsibility for determining appropriate placement *pursuant to KRS 610.200(5)*[~~, including a parent, relative, other responsible adult, or emergency shelter; and who shall:~~

~~(a) Release the child, upon the written promise of the parent or person exercising custodial control or supervision of the child to bring the child before the court or its court designated worker at a stated time;~~

~~(b) Release the child to an adult relative or other responsible adult, if the parent refuses to accept the child or the parent cannot be found, upon the adult's written promise to bring the child before the court, or its court designated worker;~~

~~(c) If a placement is available, deliver the child to an emergency shelter; or~~

~~(d) If there is an existing commitment release the child to the custody of the cabinet~~];

(3) *If* [~~Only when~~] the court designated worker determines that the placements designated in *KRS 610.200(5) and subsection* [~~subsections~~] (1) [~~and (2)~~] of this section have been exhausted, [~~may~~] a child *may* be delivered to a secure *juvenile* detention facility;

(4) When the child has not been released to his parents or person exercising custodial control or supervision, the person taking the child into custody shall make a reasonable effort promptly to give oral notice to the

parent or person exercising custodial control or supervision of the child;

(5) In all instances the peace officer taking a child into custody shall provide a written statement to the court designated worker of the reasons for taking the child into custody;

(6) If the child is placed in an emergency shelter or medical facility, during the adjudication and disposition of his case, the court may order his parents to be responsible for the expense of his care; and

(7) The peace officer taking the child into custody shall within three (3) hours of taking a child into custody file a complaint with the court, stating the status offense charged by KRS number and the reason why the child was not released to the parent or other adult exercising custodial control or supervision of the child, relative or other responsible adult, a court designated agency, an emergency shelter or medical facility. Pending further disposition of the case, the court or the court designated worker may release the child to the custody of any responsible adult who can provide adequate care and supervision.

Section 83. KRS 630.050 is amended to read as follows:

Before commencing any judicial proceedings on any complaint alleging the commission of a status offense, the party or parties seeking such court action shall meet for a conference with a court designated worker for the express purpose of determining whether or not:

(1) To refer the matter to the court by assisting in the filing of a *petition* [~~complaint~~] under KRS 610.020; [~~or~~]

(2) To refer the child and his family to a public or private social service agency. *The court designated worker shall make reasonable efforts to refer the child and his family to an agency before referring the matter to court; or*

(3) To enter into a diversionary agreement.

Section 84. KRS 630.060 is amended to read as follows:

(1) Information *supplied by* [~~from~~] the child [~~pertaining~~] to *a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child* [~~the alleged offense or offenses obtained during this process shall not be divulged during any adjudicatory proceeding except as to a question of exhaustion of available remedies as provided by KRS Chapters 600 to 645 or to the jurisdiction of the court~~].

(2) No *complaint* [~~child~~] shall be *received by the court designated worker alleging habitual* [~~brought before the court for~~] truancy unless an adequate assessment of the child has been performed pursuant to KRS 159.140(3), (4) and (6), unless it can be shown that the assessment could not be performed due to the child's failure to participate.

Section 85. KRS 630.070 is amended to read as follows:

No child shall be placed in a secure *juvenile* detention facility as a means or form of punishment *except following a finding that he is in contempt of court.* When a child is detained *for the alleged commission of a status offense* [~~as provided in KRS 630.040 for the alleged commission of an offense as provided in KRS 630.020 and not released~~], a detention hearing shall be held as soon as is practical, but within forty-eight (48) hours of the detention exclusive of weekends and holidays.

Section 86. KRS 630.080 is amended to read as follows:

In order for the court to detain the child in a secure *juvenile* detention facility after the forty-eight (48) hour period, the Commonwealth shall establish probable cause at the detention hearing that[~~:~~

~~(1)~~] a status offense has been committed and that the child committed the offense. If the Commonwealth fails to establish these grounds, the complaint shall be dismissed and the child shall be released. If the grounds are established, the child may be held in *a* secure *juvenile* detention *facility,* as provided in subsection (3) of KRS 630.040, pending an adjudicatory hearing only if the Commonwealth shows probable cause to believe *one (1) of the following* [~~that~~]:

(1)[~~(a)~~] All alternatives to secure detention have been exhausted;

(2)[~~(b)~~] The child has, within the last year, failed to appear at court hearings and requires detention to assure his presence at subsequent hearings;

(3)[~~(c)~~] The child has run away from a secure or non-secure facility;

(4)[~~(d)~~] The child has run away from his home, and his *parent* [~~parents~~], guardian, or person exercising similar custodial control or supervision of the child has orally agreed to assume physical custody or pay for his transportation within forty-eight (48) hours. The child may on his own motion present to the court reasons why he should not be returned to his parents or person exercising similar custodial control or supervision of the child. Upon consideration of such motion *or if the parents refuse to assume custody of the child,* the court may in its discretion place the youth in a non-secure facility and concurrently order that a protective services investigation be commenced as allowed by KRS Chapter 620;

(5)[~~(e)~~] The cabinet has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to KRS Chapter 615; or

(6)[~~(f)~~] The child is a danger to himself or others, unless he is suspected of having a mental or emotional illness and requires medical attention in which case the *provisions of* [~~child shall be placed for evaluation in a facility in accordance with~~] KRS Chapter 645 *shall be followed.*

Section 87. KRS 630.090 is amended to read as follows:

No alleged status offender shall be held in a secure *juvenile* detention facility as provided in KRS 630.040(3) pending adjudication for a period exceeding ten (10) days after the detention hearing pursuant to KRS 630.070, unless waived by the child, and the court considers this waiver in his best interest. Under no circumstances shall a child be held in a secure *juvenile* detention *facility* more than ten (10) days after the exercise of this waiver.

Section 88. KRS 630.100 is amended to read as follows:

No adjudicated status offender shall be held in a secure *juvenile* detention facility as provided in KRS 630.040 pending disposition for a period exceeding ten (10) days after the *adjudicatory* [~~adjudication~~] hearing, unless waived by the child and the court considers it in the child's best interest. [~~Under no circumstances shall~~] A child *shall not* be held in *a* secure *juvenile* detention *facility* more than ten (10) days after the exercise of this waiver.

Section 89. KRS 630.110 is amended to read as follows:

The general conduct of *adjudicatory* [~~the adjudication~~] hearings under this section relating to status offenders shall follow the procedures established in KRS 610.070.

Section 90. KRS 630.120 is amended to read as follows:

The general conduct of the dispositional hearings under this section relating to status offenders shall follow the procedures pursuant to KRS 610.070 and:

(1) The court shall consider all appropriate local remedies to aid the child and his family subject to the following conditions:

(a) Residential and nonresidential treatment programs for status offenders shall be community-based and non-secure; and

(b) With the approval of the education agency, the court may place the child in a non-secure public or private education agency accredited by the department of education.

(2) At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports may be received by the court provided that the *child, his* parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause the court may allow the admission of hearsay evidence.

(3) The court shall first determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.

(4) The court may order the child and his family to participate in any programs which are necessary to effectuate a change in the child and the family.

(5) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and his family, the court may commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the youth and his family subject to the following conditions:

(a) Treatment programs for status offenders shall be, unless excepted by federal law, community-based and non-secure;

(b) The cabinet may place the child in a non-secure public or private education agency accredited by the department of education;

(c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and

(d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court who may object to such discharge by holding court review of the commitment under KRS 610.120.

Section 91. KRS 630.130 is amended to read as follows:

No status offender shall be held in a secure *juvenile* detention facility after disposition for a period exceeding twenty-four (24) hours.

SECTION 92. A NEW SECTION OF KRS CHAPTER 630 IS CREATED TO READ AS FOLLOWS:

(1) Any child committed to the cabinet who is placed on supervised placement from a residential treatment facility by the cabinet and who violates the terms or conditions of supervised placement may be taken into custody and returned to active custody of the cabinet by any probation officer or by any peace officer on direction of the cabinet.

(2) The child may be taken into custody and held in one (1) of the cabinet's treatment facilities prior to the administrative hearing, if a preliminary hearing is held by a person designated by the cabinet within forty-eight (48) hours of such holding to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (3) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(3) Whether or not the child is returned to the cabinet's active custody pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection (2) of this section, an administrative hearing shall be held within ten (10) working days of the request to readmit the child to a treatment program, unless the child and his representative request or agree to a longer period of time. The hearing shall be held by a three (3) member board designated by the cabinet to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

Section 93. KRS 630.990 is amended to read as follows:

Any person who *intentionally* violates any provision of this chapter shall be guilty of a Class B misdemeanor.

Section 94. KRS 635.010 is amended to read as follows:

(1) In each district court, the court designated worker shall receive complaints alleging that a public offense has been committed. All cases governed by KRS Chapter 640 shall be set for arraignment. All other public offenses shall be proceeded against in accordance with the following:

(a) The county attorney shall cause a review to be made of each complaint. The purpose of this review shall be to determine from the available evidence whether there are reasonable grounds to believe that the alleged facts would constitute a public offense and are sufficiently serious to warrant court action. The county attorney may elect not to proceed with the complaint and shall *dismiss* [~~retire~~] the complaint;

(b) In the event the county attorney elects to proceed, the court-designated worker shall make a preliminary determination as to whether the complaint is complete, consulting with the county attorney [~~or designee~~] as may be necessary. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request, and the complainant shall promptly thereafter furnish, additional information in order to complete the complaint. If the court-designated worker determines that the complaint is complete, he shall conduct a preliminary intake inquiry concerning such complaint to determine whether in the interest of justice the complaint can be resolved informally without the filing of a petition. The court-designated worker may recommend that a petition be filed. Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian or other person exercising custodial control or supervision of the child in writing:

1. Of their opportunity to be present at the preliminary intake inquiry;

2. Of their right to have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;

3. That their participation in the preliminary intake inquiry or any resulting plan of diversion is voluntary;

4. That all information *supplied* [~~gained~~] by *the child to a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written* [~~virtue of participation in the preliminary intake inquiry is privileged and that said privilege can be waived only with the~~] consent of the child; and

5. That the child has the right to deny the charge and demand a formal court hearing;

(c) Upon the completion of the preliminary intake inquiry, the court-designated worker shall conduct a formal conference at which time he shall present information obtained at the preliminary intake inquiry to the child and the child's parents or other person exercising custodial control or supervision. The court-designated worker shall set forth in writing alternative referral programs available to the child and the criteria the court-designated worker used to determine whether to proceed with a diversionary agreement or whether to refer the matter for the filing of a public offense petition. If the court-designated worker determines that, in his judgment, the interests of the child and the public will be thereby best served, he may recommend that a public offense petition not be filed. If such a recommendation is made, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor and that the complainant, *victim, or law enforcement agency* may submit within ten (10) days from receipt of such notice a complaint to the county attorney [~~or designee~~] for special review;

(d) The county attorney [~~or designee~~] upon receipt of a request for special review shall consider the facts presented by the complainant and by the court-designated worker who made the recommendation that no petition be filed, before *the* [~~such~~] county attorney [~~or designee~~] makes a final decision as to whether a public offense petition shall or shall not be filed. In all cases in which the child is alleged to have committed a *public offense* [~~delinquent act~~] and is not detained, the court-designated worker shall submit his written recommendation to the county attorney or designee within twenty (20) days, exclusive of weekends and holidays, from the date the child was taken into custody or the complaint was filed. In cases where the child is *detained* [~~in detention~~], the court-designated worker's report shall be submitted within seventy-two (72) hours of the *time the child is ordered detained* [~~detention~~];

(e) In cases where the court-designated worker has recommended that a public offense petition not be filed and the complainant or victim, if any, or law enforcement agency having investigative jurisdiction of the offense has not called for a special review, said worker and the child may enter into a diversionary agreement. Such agreement may include the following: an informal plan of services provided by the court or its staff; referral of the child to a public or private organization, agency or person to assist the child and the child's family to resolve the problems presented in the complaint; referral to a community service program in accordance with the provisions of subsection (1) of KRS 635.080; restitution, limited to the amount of actual property or pecuniary loss incurred by the victim, provided that the youth has the means or could acquire the means to make restitution; other such programs or efforts which might reasonably benefit the community and the child. In assessing periods of community service to be performed and restitution to be paid by the youth who has entered into a diversion agreement, the court-designated worker shall to the extent possible involve members of the community. Such members of the community shall meet with the youth and advise the court-designated worker as to the terms of the diversionary agreement and shall supervise the youth in carrying out its terms. The diversionary agreement shall not cover a period in excess of six (6) months;

(f) If the terms of the agreement are successfully completed, the court-designated worker shall *dispose of* [~~retire~~] the complaint, the charges shall be considered dismissed and further prosecution is prohibited. In the event the child fails to comply with the terms of the agreement, the court-designated worker shall provide ten (10) days' written notice to the child and the child's parent or other person exercising custodial control or supervision and counsel of his intent to file a public offense petition based upon the original complaint, whereupon the court-designated worker shall meet and confer with the child and the child's parent or other person exercising custodial control and supervision and counsel to consider from the child's viewpoint why a petition should not be filed; and

(g) In the event that a complaint is not *disposed of* [~~retired~~] as a result of an agreement or in the event that the child fails to comply with the terms of an agreement and a petition is filed, the court shall proceed with the petition in accordance with the provisions of KRS Chapter 610 as if the agreement had never been formulated. In the event that *a* petition is filed based upon the court-designated worker's determination that the child has failed to comply with the terms of an agreement, the child may upon arraignment of said petition move for dismissal of the petition on the basis that the agreement was substantially complied with; and

(2) In the event a public offense petition is filed, it shall be verified by information and belief and contain the information listed in KRS 610.020.

Section 95. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child [~~over fourteen (14) before the court has been~~] charged with a capital offense, Class A felony or Class B felony, *had attained age fourteen (14) at the time of the alleged commission of the offense,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(3) If a child [~~over sixteen (16) before the court has been~~] charged with a Class C or Class D felony [~~and~~] has on two (2) prior separate occasions been adjudicated *a public offender for a felony offense or a* delinquent of a felony offense *and had attained the age of sixteen (16) at the time of the alleged commission of the offense,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(4) If a child [~~under eighteen (18),~~] previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with [~~the commission of~~] a felony *allegedly committed prior to his eighteenth birthday,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(5) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, *a misdemeanor or a violation* arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(6) *If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.*

(7) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, *whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to circuit court.*

Section 96. KRS 635.050 is amended to read as follows:

[~~(1)~~] After adjudication, a determination by the court that *a child shall be detained* [~~detention~~] pending disposition [~~is necessary~~] shall be based on a finding of the court by a preponderance of the evidence that the circumstances surrounding the child are such as to endanger his safety or welfare or that of the community.

[~~(2) After the adjudication, the court may order public offenders to be evaluated pursuant to KRS Chapter 645.~~]

SECTION 97. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

No child who is found to be in contempt of court shall be detained because of such finding in a facility other than a secure juvenile detention facility or juvenile holding facility.

Section 98. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing may:

(1) Order the child to make restitution or reparation to any injured person to such extent, in such sum and upon such conditions as the court determines;

(2) Place the child on probation or under supervision in his own home or in a suitable [~~family~~] home or boarding home, upon such conditions as the court shall determine. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or an employe of the cabinet. A child so placed on probation or supervision shall remain subject to the jurisdiction of the court until he becomes eighteen (18) years of age, unless he is discharged prior thereto by the court, except that if a person is placed on probation or supervision after he reaches the age of seventeen (17) years and six (6) months, such probation or supervision shall be for a period not to exceed one (1) year;

(3) Commit the child to the custody or guardianship of the cabinet or of a *child-caring facility* [~~private institution~~] or *a child-placing* [~~public~~] agency authorized to care for such children, or place the child under the custody and the supervision of a suitable person. All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public. Such commitment or placement shall be until the age of eighteen (18) subject to the power of the court to terminate the order and discharge the child prior thereto, except that if such commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months such commitment or placement shall be for an indeterminate period not to exceed one (1) year. *The court, in its discretion, upon motion by the child and with the concurrence of the cabinet, may authorize an extension of commitment up to age twenty-one (21) to permit the cabinet to assist the child in establishing independent living arrangements*; or

(4) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure *juvenile* detention facility *or juvenile holding facility* in accordance with KRS 15A.200 for a period of time not to exceed thirty (30) days.

Section 99. KRS 635.070 is amended to read as follows:

The governing authorities of *the* [~~said~~] cabinet, agency or *facility* [~~institution~~] may discharge the child unless the court directs otherwise. Prior to [~~said~~] discharge, two (2) weeks' written notice *shall* [~~must~~] be given to the committing court, to the legal representative of the child and to the county attorney of the county in which the committing court presides. During the period of commitment or placement, the court may review a dispositional order and may continue or terminate such order as the court deems essential to the best interests of the child. In committing a child to a *child-caring facility* [~~private institution~~] or *a child-placing* agency the court shall select one (1) that is approved by the cabinet and children committed to such *a facility* [~~an institution~~] or agency shall be subject to the visitation and supervision of a probation officer or family service worker.

Section 100. KRS 635.080 is amended to read as follows:

If [~~(1) In the event~~] a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court shall have exclusive, original jurisdiction of the new offense. If a child fourteen (14) or older has been adjudicated *a public offender,* [~~delinquent~~] the court in its discretion may order participation in a community services work program. If the child is committed to the cabinet on a previous offense, the child shall be released from commitment if ordered to a work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling *and supervision* from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred twenty (120) hours. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution.

[~~(2) In lieu of commitment to the cabinet, if a child is sixteen (16) years or older and is adjudicated delinquent, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine. Fines shall be levied consistent with the schedule set forth below:~~

~~(a) For a felony, not to exceed five hundred dollars ($500);~~

~~(b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and~~

~~(c) For a violation, not to exceed one hundred dollars ($100).~~

~~(3) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's exercising its inherent contempt powers.~~

~~(4) Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure detention facility. Any portion of a day spent in detention pursuant to the court's exercising of its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.~~]

SECTION 101. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

(1) In lieu of commitment to the cabinet, if a child is sixteen (16) years or older and is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

(a) For a felony, not to exceed five hundred dollars ($500);

(b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and

(c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility or juvenile holding facility. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.

(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the local alternatives to detention fund created by KRS 15A.250.

Section 102. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, [~~or~~] if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 *or if the county attorney elects not to proceed under KRS Chapter 640*, the court may:

(a) If a child is fourteen (14) years of age or older, and is adjudicated *a public offender* [~~delinquent~~] in the commission of a capital offense, Class A felony or Class B felony, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not *less than six (6)* [~~exceeding twelve (12)~~] months. *The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday*; or

(b) If a child is sixteen (16) years of age or older, and is adjudicated *a public offender* [~~delinquent~~] in the commission of a felony offense and has previously been adjudicated delinquent of *two (2) or more* [~~a~~] felony *offenses not arising out of the same course of conduct* [~~offense~~] in two (2) or more separate adjudications, *or has previously been adjudicated a public offender for two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications*, the court in its discretion may commit the child to the cabinet for purposes of *treatment or* placement in a facility or [~~other treatment~~] program for an indeterminate period of time not *less than six (6)* [~~exceeding twelve (12)~~] months. *The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday.*

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) The cabinet shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.

(4) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(5)[~~(4)~~] The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

(6)[~~(5)~~] After a child has been committed to the cabinet as provided in this section he may not then be transferred to the circuit court as provided for in KRS 640.020.

Section 103. KRS 635.100 is amended to read as follows:

(1) Any child committed to the cabinet who is placed on supervised placement from a residential treatment facility by the cabinet and who violates the terms or conditions of supervised placement may be taken into custody and returned to active custody of the cabinet by any probation officer or by any peace officer on direction of the cabinet.

(2) *The* [~~Such~~] child may be taken into custody and *held* [~~detained~~] in one of the cabinet's treatment facilities prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the cabinet within forty-eight (48) hours of *the holding* [~~such detention~~] to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (3) of this section. *The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.*

(3) *If* [~~Whether or not~~] the child is returned to the cabinet's active custody pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection (2) of this section, an administrative hearing shall be held within ten (10) working days of the request to readmit the child to a treatment program unless the child and his representative request or agree to a longer period of time. The hearing shall be held by a three (3) member board designated by the cabinet to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(4) The cabinet may promulgate administrative regulations to implement the provisions of this chapter.

Section 104. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5), [~~or~~] (6), *or (7),* the court shall *at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed* [~~hold a preliminary hearing during which counsel paid for, or provided by, the department of public advocacy is appointed for the child, if the child has not retained private counsel. The Commonwealth shall establish probable cause that the child committed the offense charged and in addition shall prove the existence of at least one (1) of the following factors:~~

~~(a) The child has been adjudicated delinquent of a felony within one (1) year prior to the commission of the charged offense; or~~

~~(b) The child has failed to comply with the conditions of a dispositional order imposed following an adjudication of delinquency for a felony offense during the year immediately preceding the bringing of this action~~].

(2) *In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020, the court shall upon motion by the county attorney to proceed under this chapter, conduct a preliminary hearing to determine if the child should be transferred to circuit court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.*

(a) At the preliminary hearing the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the circuit court:

1. The seriousness of the alleged offense;

2. Whether the offense was against person or property, with greater weight being given to offenses against persons;

3. The maturity of the child as determined by his environment;

4. The child's prior record;

5. The best interest of the child and community;

6. The prospects of adequate protection of the public; and

7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services and facilities currently available to the juvenile justice system.

(c) If, following the completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section, that the child should be transferred to circuit court, the court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the circuit court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section that [~~If the Commonwealth establishes probable cause that the child committed the offense charged and sustains its burden of proving the existence of at least one (1) of the factors set forth above, the charges against the child shall be transferred to the circuit court to be tried as a youthful offender, except that the child may present to the court reasons why he should not be transferred to the circuit court.~~

~~(3) If the Commonwealth fails to prove the existence of at least one (1) of the factors listed in subsection (1) of this section or if the court determines the child's case should be dealt with in the juvenile court,~~] the child shall not be transferred to the circuit court, *the case* [~~but~~] shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to circuit court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), and (4), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in circuit court but shall be returned to district court to be dealt with as provided in KRS Chapter 635.

Section 105. KRS 640.020 is amended to read as follows:

(1) Any person proceeded against as a youthful offender under the provisions of this chapter *who is under eighteen (18) years of age* shall, [~~regardless of his age~~], be *detained in a secure juvenile detention facility or a juvenile holding facility* [~~transferred to a facility meeting the requirements of KRS 610.230~~], if he is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.

(2) Any person proceeded against as a youthful offender under the provisions of this chapter who is eighteen (18) years of age or older shall be lodged as an adult if he is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.

Section 106. KRS 640.030 is amended to read as follows:

A youthful offender, if *he is* convicted of, or pleads guilty to, a felony offense in circuit court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the cabinet for human resources or by its designated representative;

(2) Any sentence imposed upon the youthful offender shall be served in a facility or program operated by the cabinet for human resources until: the expiration of the sentence; the youthful offender is paroled; the youthful offender is probated; or the youthful offender reaches the age of eighteen (18), whichever first occurs. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge;

(b) Whether the youthful offender shall be returned to the cabinet for human resources to complete a treatment program, which treatment program shall not exceed a period in excess of six (6) months. At the conclusion of the treatment program or at the expiration of six (6) months, whichever first occurs, the individual shall be finally discharged; or

(c) Whether the youthful offender shall be incarcerated in an institution operated by the corrections cabinet; and

(3) If a child has attained the age of eighteen (18) prior to sentencing, he shall be returned to the sentencing court at the end of a six (6) month period if he has been sentenced to a period of placement or treatment in a cabinet for human resources facility or program. The court shall have the same dispositional options as currently provided in subsection (2) of this section, except that youthful offenders shall not remain in the care of the cabinet for human resources after the age of nineteen (19).

(4) A youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program as mandated by KRS 439.340(10) by the cabinet for human resources pursuant to KRS 208.800 if the youthful offender has not been transferred to the corrections cabinet pursuant to KRS 640.070.

Section 107. KRS 640.080 is amended to read as follows:

Youthful offenders shall be subject to the jurisdiction of the Kentucky parole board *and may be placed on parole to the corrections cabinet.* The parole board may, with regard to a youthful offender, exercise any of the powers which it possesses pursuant to KRS Chapter 439, except as provided in KRS Chapters 600 to 645.

Section 108. KRS 640.100 is amended to read as follows:

All officials of the cabinet for human resources and the corrections cabinet shall furnish members of the *parole* board, or its properly accredited representatives:

(1) Access at all reasonable times to any youthful offender over whom the board has jurisdiction under this chapter;

(2) Facilities for communicating with and observing such youthful offender;

(3) Such reports as the board shall require concerning the conduct and character of any youthful offender in its custody; and

(4) Any other facts deemed pertinent by the board in determining whether such youthful offender shall be paroled.

Section 109. KRS 645.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

(1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;

(2) "Danger to himself or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to himself or others, as evidenced by recent threats or overt acts, including acts by which he deprives himself or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to himself, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;

(3) "Hospital" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;

(4) "Least restrictive alternative" means the treatment and conditions of treatment for a child which, separately and in combination:

(a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and

(b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on his prior outpatient treatment, that he will benefit from outpatient treatment;

(5) "Mental health care program" means a nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavorial problems;

(6) "Mental health group home" means a community-based facility established to serve not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of *a residential treatment facility or a hospital* [~~an institutional campus~~]; and

(7) "Mentally ill child" means that considering the child's age and development, he has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, his behavior is maladaptive or he exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

Section 110. KRS 645.030 is amended to read as follows:

An authorized staff physician may admit for observation, diagnosis, and treatment at a hospital any child who is mentally ill or has symptoms of mental illness:

(1) Upon written application of a parent or other person exercising custodial control or supervision, if the child is under sixteen (16) years of age. At or before the child's admission, the *child,* parent or other person shall be informed of his rights under KRS 645.230 and 645.240. Any child admitted under this subsection who reaches his sixteenth [~~(16th)~~] birthday while hospitalized shall consent to his continued hospitalization, or shall request his release. If the child fails to choose, the hospital shall advise the court designated worker and the parent or other person exercising custodial control or supervision;

(2) Upon written application by a child who is at least sixteen (16) years of age and one of his parents or a person exercising custodial control or supervision. At or before admission, the child shall be informed of his right to give notice of his intent to leave under KRS 645.190 and his right to consult an attorney or his court designated worker under KRS 645.130. The child may consult an attorney prior to his admission; or

(3) Upon written application by a child who is at least sixteen (16) years of age. At or before admission, the child shall be informed of his rights under KRS 645.190 and his parents' rights under KRS 645.220, 645.230 and 645.240.

SECTION 111. A NEW SECTION OF KRS 645.030 TO 645.040 IS CREATED TO READ AS FOLLOWS:

(1) A child hospitalized under this chapter shall have the following rights:

(a) The right to due process as defined in KRS 645.170, within the hospital;

(b) The right to convalescent leave status if appropriate;

(c) The right to be adequately informed as to his individual treatment program;

(d) The right to assist in the planning of his treatment program;

(e) The right to refuse treatment subject to the provisions of KRS 645.170;

(f) The right to maintain and use personal possessions and money;

(g) The right to receive visitors subject to the provisions of KRS 645.170;

(h) The right to receive payment for work performed on behalf of the hospital;

(i) The right to refuse intrusive treatment subject to the provisions of KRS 645.170;

(j) The right to be free from unreasonable use of seclusion and restraint subject to the provisions of KRS 645.170;

(k) The right to seek relief from participating in his treatment plan; and

(l) The right not to be transferred from one (1) facility to another, subject to the provisions of KRS 645.170.

(2) A child who is involuntarily hospitalized under this chapter shall have a right to a complete record of the court proceedings without charge for appeal purposes, the right to appeal without bond or filing fee, and the right of habeas corpus.

(3) Any child who believes that any right guaranteed by this chapter has been violated shall have the right to contact the court designated worker in the county where the hospital is located to communicate with the worker and the court.

Section 112. KRS 645.040 is amended to read as follows:

A parent or other person exercising custodial control or supervision of a child, including a hospital or the state *or any interested person*, may seek to hospitalize a child who is mentally ill or has symptoms of mental illness by filing a petition for certification with the court.

Section 113. KRS 645.060 is amended to read as follows:

(1) Upon receipt of a petition for certification, the court shall appoint counsel from the department of public advocacy to represent the child at every stage of the proceedings.

(2) [~~Counsel shall advance the express wishes and shall advance the best interest of the child at all pre-adjudicatory and adjudicatory proceedings. During dispositional proceedings, he may advance the best interest of the child.~~

~~(3)~~] Within seven (7) days, exclusive of weekends and holidays, of the filing of a petition, counsel shall advise the court in writing whether the child wishes to contest the petition:

(a) If the child does not wish to contest the petition, the court may order the child hospitalized for a period not to exceed sixty (60) days; and

(b) If the child wishes to contest the petition, a certification hearing shall be held within seven (7) days, exclusive of weekends and holidays, of the filing of the child's wishes. Pending the certification hearing, the child's placement shall remain unchanged unless the court finds a change would promote the best interest of the child.

(3)[~~(4)~~] The court may order the parents to pay for the child's counsel.

Section 114. KRS 645.070 is amended to read as follows:

(1) All hearings under this chapter shall be conducted in accordance with the Kentucky Rules of Criminal Procedure unless otherwise provided.

(2) Hearings under this chapter may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the child's physical or mental health. Hearings may be held in chambers, the hospital, or any other suitable place.

(3) The child shall have the right to be present at any hearing under this chapter unless:

(a) He and his counsel have waived this right; or

(b) On motion of any interested party, the court determines the child's presence at all or part of the hearing *is likely to have a harmful effect on* [~~would be seriously detrimental to~~] the child's *physical or mental health* [~~medical condition or treatment~~].

(4) The child and his counsel shall have the right to cross-examine witnesses and to present testimony and evidence in opposition to certification, including the testimony of a qualified mental health professional.

(5) The child's parents shall have a right to participate in the hearing.

(6) The court may, on its own motion, subpoena and question relevant witnesses.

Section 115. KRS 645.080 is amended to read as follows:

(1) Disclosures made by a child during observation, diagnosis, or treatment shall be admissible during the certification hearing under this chapter.

(2) No disclosure made by the child under this chapter shall be admissible in any *public offense actions* [~~delinquency~~] or criminal proceedings unless the child introduces evidence concerning his mental condition at such a proceeding.

Section 116. KRS 645.100 is amended to read as follows:

(1) Within three (3) days, exclusive of weekends and holidays, of the conclusion of the certification hearing, the court shall enter an order denying or granting the petition and shall state in writing the factual findings regarding criteria specified in KRS 645.090.

(2) If the petition is denied, the court may release the child[~~, may commit the child to the cabinet,~~] or may enter an emergency custody order *for purposes of proceedings under other provisions of KRS Chapters 600 to 645* to secure proper care for the child. [~~The cabinet may place the child in a clinical treatment facility, mental health group home or mental health care program.~~]

(3) If the petition is granted, the court shall authorize the child's hospitalization for a period of no more than sixty (60) days. The court shall order the person who is to transport the child to the hospital to deliver to the hospital copies of orders and all relevant information concerning the child's involuntary hospitalization. If the child is already hospitalized, the court shall otherwise arrange for the prompt transmittal of orders and all relevant information to the hospital.

Section 117. KRS 645.110 is amended to read as follows:

(1) If the petitioner or other interested person desires to continue a child's hospitalization beyond the initial sixty (60) days, he shall file a petition for recertification before the original sixty (60) days *expire* [~~expires~~]. The procedures and rights specified in KRS 645.050 to 645.100 apply to recertification petitions and hearings except as otherwise specified in this section.

(2) The court may deny the petition or may authorize a continuation of the child's hospitalization for

a period of no more than one hundred eighty (180) days.

(3) If the child has been represented previously, the same attorney shall continue to represent him at the recertification hearing unless the court determines otherwise for good cause.

(4) The child shall be brought to the court for the initial and subsequent recertification hearings unless the *court determines the child's presence at all or part of the hearing is likely to have a harmful effect on the* child's physical *or mental health* [~~condition would be threatened~~].

(5) In evaluating the criteria specified in KRS 645.090 at a recertification hearing, the court shall consider the child's prior treatment, the ability of the hospital to provide appropriate treatment, and the likelihood of future improvement through treatment.

Section 118. KRS 645.120 is amended to read as follows:

(1) *If* [~~When~~], as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, *a peace officer or* any interested person may either take the child to a hospital, *secure juvenile detention facility, juvenile holding facility, or another less restrictive alternative* or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may *place a* [~~detain the~~] child up to twenty-four (24) hours, excluding weekends and holidays, in a *mental health* facility, *if one (1) is available, or if such facility is not available, secure juvenile detention facility, juvenile holding facility or another less restrictive alternative* [~~other than one listed in KRS 610.230~~]. *The peace officer shall notify the court designated worker of the child's placement, unless he takes the child to a hospital. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital.*

(2) On the basis of a prompt examination and any other available information *concerning a child who is present at or presented at a hospital,* an authorized staff physician shall determine *within twenty-four (24) hours* if the child needs immediate hospitalization *after which the child shall be released within* [~~for a period not to exceed~~] seventy-two (72) hours *unless he is held pursuant to other provisions of this chapter.* [~~:~~]

(a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;

(b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, he shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and

(c) If the authorized staff physician determines the child does not need immediate hospitalization, he shall release the child *to a parent, person exercising custodial control or supervision or an agency having custody of the child* and make whatever recommendations or referrals he deems appropriate.

(3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within *twenty-four (24)* [~~forty-eight (48)~~] hours of the filing, exclusive of weekends and holidays, the court shall *on an ex parte basis, which may be by telephone*:

(a) Deny the petition; or

(b) Issue an order authorizing a peace officer to transport the child to a designated hospital for evaluation for emergency hospitalization, at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. *If the child is committed to the cabinet or will be treated by the cabinet,* the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. The cabinet shall pay the actual traveling expenses of the child and the official transporting him both to and from the designated hospital.

(4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and

holidays, unless a certification petition is filed before the seven (7) days expire.

(5) If it appears that a child committed to the cabinet is mentally ill, the cabinet may use state mental hospital facilities or other resources for observation of mental conditions. This period of observation shall not exceed thirty (30) days. *If a qualified mental health professional not employed by the cabinet finds that the child does not meet the definition of a "mentally ill child" under KRS 645.020(7), the child shall be discharged. During the thirty (30) days, a child who is at least sixteen (16) years of age may apply for admission as a voluntary patient. During the thirty (30) days, voluntary admission of a child who is under sixteen (16) years of age may be applied for by a parent, physician or other person exercising custodial control or supervision.* After thirty (30) days, the child shall be removed or a certification petition shall be filed under this chapter.

Section 119. KRS 645.150 is amended to read as follows:

(1) A child hospitalized under this chapter *shall* [~~is entitled to~~] receive necessary and appropriate treatment.

(2) Except as provided for in KRS 645.120, no child shall be hospitalized involuntarily unless in the opinion of two (2) qualified mental health professionals, at least one (1) of whom is a physician, he meets the criteria set out in KRS 645.090.

(3) *An* [~~If the~~] authorized staff physician *shall discharge any voluntary patient who is no longer mentally ill to a parent, guardian or person exercising custodial control or supervision, or to an appropriate adult or agency having custody* [~~believes a child does not meet or no longer meets the criteria set out in KRS 645.090, the child shall be released or discharged~~].

(4) A hospital which discharges a child *for any reason* shall notify *in writing* the court which originally certified hospitalization, explaining the circumstances under which the child was discharged, as soon as practicable.

SECTION 120. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

(1) The certification referred to in this chapter shall be in the form prescribed by the department. The certification shall state that the child has been examined by each of the qualified mental health professionals making the certification within twenty-four (24) hours, excluding weekends and holidays, of the date of their certification. It shall state the facts and circumstances upon which the judgment of the qualified mental health professional is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) The qualified mental health professional shall be entitled to a fee for examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

Section 121. KRS 645.170 is amended to read as follows:

(1) Every hospital which treats children under this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the hospital director. The review committee shall have the authority to review the appropriateness of a patient's individual treatment plan.

(2) Upon the written refusal of an involuntary patient to participate in any or all aspects of his treatment plan, the review committee shall examine the appropriateness of the patient's individual treatment plan. After a patient refuses to participate in his treatment plan and until his disagreement with the plan has been resolved, the hospital may administer only that treatment which the treating physician determines is necessary to protect the patient from harming himself or others. Within three (3) days, exclusive of weekends and holidays, of the refusal, the review committee shall meet with the patient and his counsel or court designated worker to discuss their recommendations.

(3) If the patient still refuses to participate in any or all aspects of his individual treatment plan, the hospital may petition the district court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days *of the filing of the hospital's petition*, excluding weekends and holidays, the court shall conduct a hearing, consistent with the patient's right to due process of law, and shall *consider all* [~~utilize the following~~] factors in reaching its determination, *including but not limited to:*

(a) Whether the treatment is necessary to protect other patients or the patient himself from harm;

(b) Whether the patient is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment is available; [~~and~~]

(d) Whether the proposed treatment carries any risk of permanent side effects; *and*

(e) Whether the proposed treatment is likely to improve the patient's condition.

(4) Upon the completion of the hearing, the court shall, *considering the proof and from a preponderance of the evidence finding that the factors listed in subsection (3) of this section have been established,* enter an appropriate judgment, *enumerating the factors found to exist,* which *judgment* shall be considered final for purposes of appeal. No court shall consent to psychosurgery or electroshock therapy nor shall it order such treatment. If the court denies the hospital the right to administer the treatment in question, the hospital may discharge the child.

Section 122. KRS 645.180 is amended to read as follows:

(1) Upon notice to the court, an authorized staff physician may release an involuntary patient on convalescent leave not to exceed ninety (90) days. The physician may authorize convalescent leave only if he concludes that the patient would not present a danger or a threat of danger to himself or others during such a leave. Release on convalescent leave shall [~~not~~] terminate the involuntary hospitalization order and shall include provisions for a jointly developed treatment plan by the hospital and by the provider of outpatient care who will provide follow-up care and the continual monitoring of the patient's condition by the provider.

(2) [~~The hospital may at any time readmit a patient on convalescent leave without additional court proceedings.~~] If there is reason to believe that [~~it is in the best interest of~~] the patient *meets the criteria for involuntary hospitalization* [~~to be rehospitalized~~], the cabinet, [~~or~~] an authorized staff physician of the hospital *or other interested person* may *file a petition for certification or may proceed with an emergency hospitalization under KRS 645.120* [~~issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with shall, upon endorsement by a judge of any court of the county in which the patient is a resident or is present, authorize any health or police officer to take the patient into custody and transport him to the hospital. Notice of the rehospitalization and the rehospitalization order shall be given to the court which originally certified hospitalization as soon as practicable~~].

(3) At the conclusion of a convalescent leave, the child may be readmitted to the hospital *voluntarily,* [~~if the involuntary hospital order has not expired, a new convalescent leave may be initiated, or~~] the child may be discharged *or, if appropriate, the cabinet, an authorized staff physician, or other interested person may file a petition for certification or may proceed with an emergency hospitalization under KRS 645.120.*

Section 123. KRS 645.210 is amended to read as follows:

(1) After a notice of contest has been received, the hospital may continue the hospitalization on an involuntary basis until a hearing has been held and the court orders otherwise. In no case may the child be held more than fifteen (15) days beyond the filing of the notice of contest, unless a certification hearing has been held within seven (7) days of the filing of the notice of contest.

(2) A hearing to determine the necessity for continued hospitalization shall be held within seven (7) days of the court's receipt of the notice of the contest. If the court concludes that the child does not meet the criteria set out in KRS 645.090, the court may order the child discharged[~~, may commit the child to the cabinet,~~] or may enter an emergency custody order *for purposes of proceeding under other provisions of KRS Chapter 600 to 645* to secure proper care for the child. The cabinet may place the child in a clinical treatment facility, mental health group home or mental health care program.

Section 124. KRS 645.220 is amended to read as follows:

(1) *If* [~~When~~] a child who is at least sixteen (16) years of age is voluntarily admitted to a hospital under this chapter, the hospital shall give notice within twenty-four (24) hours to the child's parents or other person

exercising custodial control or supervision, including the state, if applicable.

(2) [~~When a petition for certification or for emergency hospitalization is filed, the court shall immediately notify the child's parents or other person exercising custodial control or supervision, including the state, if applicable.~~

~~(3)~~] Notices under this section shall advise the recipient of the following:

(a) The name, address, telephone number and name of the hospital's administrator;

(b) The hospital's policies concerning visitation and other communications;

(c) The right of the parent or other person exercising custodial control or supervision to participate in the child's treatment; and

(d) The right of the parent or other person exercising custodial control or supervision to participate in any proceedings under this chapter, including the right to seek discharge of the child under KRS 645.230.

(3) When a petition for certification or for emergency hospitalization is filed, the court shall immediately notify the child's parents or other person exercising custodial control or supervision, including the state, if applicable.

(4) Notices under this section shall be in the form most likely to reach the intended person.

Section 125. KRS 645.230 is amended to read as follows:

(1) The *child,* parent or other person exercising custodial control or supervision of a child hospitalized under this chapter shall be entitled to confer at regular intervals with the treating or admitting physician or a member of the child's treatment team concerning the child's condition, treatment, or diagnosis. The hospital or other proponent of certification may request that the parent or other person exercising custodial control or supervision of a child be available for consultation and cooperation in connection with the treatment process and may seek a court order to require such cooperation.

(2) A parent or other person exercising custodial control or supervision of a child who has been hospitalized pursuant to KRS 645.030 may at any time file a notice to withdraw the child from the hospital. Upon receipt of such notice, the hospital may discharge the child immediately to the custody of his parent or other person exercising custodial control or supervision, or if in the opinion of the treating physician release would be seriously detrimental to the child's health, the physician shall:

(a) Discharge the child to the custody of his [~~or her~~] parent or other person exercising custodial control or supervision against medical advice, after advising them against discharge and seeking their written acknowledgment that they have been so advised; or

(b) Refuse to discharge the child for a period of no more than *seventy-two (72) hours* [~~three (3) days~~], exclusive of weekends and holidays, after receipt of the notice to withdraw, provided that the hospital or the physician files a petition for certification within the three (3) days, exclusive of weekends and holidays, in which case the hospital may hold the child until the court's ruling following the certification hearing.

Section 126. KRS 645.240 is amended to read as follows:

(1) A child admitted to a hospital pursuant to [~~subsection (2) or (3) of~~] KRS 645.030 may object to a discharge requested by his parent or other person exercising custodial control or supervision by stating in writing his objection and his desire to remain as a patient.

(2) If the hospital desires to continue observation, diagnosis, or treatment of the child, it shall notify the parent or other person exercising custodial control or supervision within three (3) days, exclusive of weekends and holidays, and may continue to treat the child. The hospital shall also notify the parent or the person of his right to file with the court a petition to discharge, stating the basis for the parent or other person's belief that the child no longer meets the criteria set out in KRS 645.090.

(3) Upon the filing of a petition to discharge, the procedures for certification hearings shall apply except that the parent or other person exercising custodial control or supervision shall have the burden to demonstrate that the criteria for hospitalization are not met.

SECTION 127. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

Appeals from the final orders or judgments of the court made and entered in proceedings under this chapter shall be taken in the same manner as other appeals from district to circuit court.

SECTION 128. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

(1) No monetary liability and no cause of action shall arise against any qualified mental health professional for failing to predict, warn or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of physical violence against a clearly identified or reasonably identified victim, or unless the patient has communicated to the qualified mental health professional or other person serving in a counselor role an actual threat of some specific violent act.

(2) The duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the qualified mental health professional or person serving in a counselor role if reasonable efforts are made to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and the victim's residence of the threat of violence. If the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precautions to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the child under KRS Chapter 645.

(3) No monetary liability and no cause of action shall arise against any qualified mental health professional or person serving in a counselor role for confidences disclosed to third parties in an effort to discharge a duty arising under this section.

Section 129. KRS 645.990 is amended to read as follows:

Any person who *intentionally* [~~willfully~~] causes[~~, or conspires with or assists another in causing:~~

~~(1)~~] the unwarranted hospitalization of any individual under this chapter[~~;~~] or [~~(2)~~] the denial to any individual of any of the rights accorded to him under this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

Section 130. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 *and* [~~,~~] 15A.990*:* [~~,~~]

(1) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the justice cabinet after consultation with the cabinet for human resources and other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(3) "Juvenile holding facility" means a physically secure setting, approved by the corrections cabinet, which is an entirely separate facility or portion or wing of a jail containing adult prisoners, to which access cannot be gained from the adult section of the jail and which is exclusively staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision; and

(4) "*Secure* juvenile detention *facility* [~~center~~]" means any facility used for the secure detention of children

other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.

Section 131. KRS 15A.210 is amended to read as follows:

[~~On or before July 1, 1987,~~] The justice cabinet shall issue *and enforce* administrative regulations to govern at least the following aspects of the operation of *secure* juvenile detention *facilities* [~~centers~~]:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Residents' rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 132. KRS 15A.220 is amended to read as follows:

(1) On or before July 1, 1988, each person or organization operating a *secure* juvenile detention *facility* [~~center~~] shall register with the justice cabinet and shall comply with the regulations issued pursuant to KRS 15A.210.

(2) After July 1, 1988, each organization operating or seeking to operate a *secure* juvenile detention *facility* [~~center~~] shall:

(a) Apply to the justice cabinet *in a period of time set by regulation* [~~not less than sixty (60) days~~] prior to the scheduled opening of the *secure juvenile detention* facility;

(b) Permit inspection of the *secure juvenile detention* facility by the justice cabinet not less than thirty (30) days prior to the scheduled opening of the *secure juvenile detention* facility; and

(c) Supply to the justice cabinet not less than thirty (30) days prior to the scheduled opening of the *secure juvenile detention* facility all data, plans, and other materials required by the justice cabinet.

(3) No secure juvenile detention facility shall operate after July 1, 1988, except with the approval of the justice cabinet.

Section 133. KRS 15A.230 is amended to read as follows:

(1) After July 1, 1988, the justice cabinet shall inspect, at least annually, each registered *secure* juvenile detention *facility* [~~center~~] to assure its compliance with administrative regulations; and

(2) After July 1, 1988, the justice cabinet may require reports and other data at least annually from each *secure* juvenile detention *facility* [~~center~~].

Section 134. KRS 15A.260 is amended to read as follows:

Moneys in the local alternatives to detention fund shall be utilized only for demonstration programs administered *or contracted for* by a county and shall be limited to programs whose purpose is to:

(1) Provide an alternative to placing juveniles in jails, *intermittent holding facilities, juvenile holding facilities,* or *secure* juvenile detention *facilities* [~~centers~~];

(2) *Hold* [~~Detain~~] juveniles for no more than seventy-two (72) hours in *juvenile holding* [~~intermittent~~] facilities prior to their disposition under KRS Chapters 620, 630, 635, and 645; or

(3) Provide transportation of juveniles to and from alternatives-to-detention programs, intermittent holding facilities, *secure* juvenile detention *facilities, juvenile holding facilities,* [~~centers~~] and court *appearances* [~~appearings~~].

Section 135. KRS 15A.270 is amended to read as follows:

The justice cabinet shall issue *and enforce* administrative regulations to govern at least the following aspects of the operation of the local alternatives-to-detention fund:

(1) Application procedures, including granting and denying applications;

(2) Program and funding restrictions;

(3) Program and funding reports;

(4) Termination of programs; and

(5) Other related matters.

Section 136. KRS 15A.990 is amended to read as follows:

Any person who *intentionally* violates the provisions of KRS 15A.210 to 15A.230 or the administrative regulations issued thereunder shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000). Each day of violation shall be a separate offense.

Section 137. KRS 67.0831 is amended to read as follows:

(1) The fiscal court of each county shall provide for a suitable facility or facilities for the custody and care of children held in custody pending disposition of their cases by the district court, and may employ necessary personnel for the operation thereof.

(2) [~~In counties containing a city of the first or second class or urban-county government,~~] The fiscal court or urban-county council shall maintain a *secure juvenile* [~~permanent~~] detention *facility or a juvenile holding facility* [~~home~~], either through *contract* [~~arrangement~~] with another public agency or with a private organization or agency, or by acquiring and operating the *secure juvenile detention facility or juvenile holding facility* [~~home~~] as a county institution.

(3) [~~In counties other than those containing a city of the first or second class, the fiscal court shall either maintain a detention home or arrange for the use of private or family homes.~~

~~(4)~~] Each child detained in *a secure juvenile detention* [~~such~~] facility *or a juvenile holding facility* shall be deemed to be under the jurisdiction of the district court before which his case is pending.

Section 138. KRS 194.360 is amended to read as follows:

The cabinet shall make an annual report to the governor, the general assembly, and the chief justice. The report shall be tendered to the above-named parties not later than December 1st of each year and shall include information for the previous fiscal year. The report shall include, but need not be limited to, the following information on children within the purview of the cabinet:

(1) The number of committed children in foster care;

(2) The number of committed children placed in private child care facilities;

(3) The amount of funds expended by federal and state governments for social worker and administrative salaries, maintenance payments to foster parents, medical care, counseling services, and other supportive services required to maintain children in foster homes;

(4) The amount of funds expended by federal and state governments for social worker and administrative salaries, payments to private child care facilities, medical care, counseling services, and other supportive services required to maintain children in private child care facilities;

(5) The amount of funds expended by federal and state governments for social worker and administrative salaries on protective services to children placed with their *biological* [~~natural~~] parents, or persons exercising custodial control or supervision of the child;

(6) The amount of funds expended by federal and state governments for social worker and administrative salaries on rehabilitative services provided to biological parents while the child has been placed in foster care;

(7) The number of foster children eligible for adoption, the number of such children adopted, and the number of foster children determined not eligible for adoption and the reasons therefor;

(8) The number of foster children placed in permanent or long-term foster care;

(9) The average length of time each child spends in foster care; and

(10) Any other matters relating to the care of foster children which the cabinet deems appropriate and which may promote further understanding of the impediments to providing permanent homes for foster children.

Section 139. KRS 199.645 is amended to read as follows:

The cabinet for human resources shall issue *and enforce* administrative regulations specifically addressing the unique situation of child-caring facilities and child-placing agencies which provide non-secure care for children during the pre-adjudication phase of proceedings under KRS Chapter *630 and 635* [~~199~~]. Such facilities and agencies shall include those operated privately and those operated by units of local government. These regulations shall include standards relating to the following:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Resident rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 140. KRS 189A.030 is amended to read as follows:

(1) Terms of imprisonment for first and second offenders under KRS 189A.010 shall, at the order of the court, be served on weekends or such other times as may preserve the employment or education of the offender, provided that no individual period of incarceration shall be less than twenty-four (24) hours.

(2) *Children shall be detained pursuant to the applicable provisions of KRS Chapters 600 to 645* [~~Terms of imprisonment for persons under the age of eighteen (18) shall be served in a location meeting the criteria of KRS Chapters 610, 630, 635 and 640~~].

SECTION 141. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

On or before July 1, 1988, the corrections cabinet shall issue and enforce administrative regulations to govern at least the following aspects of the operation of juvenile holding facilities:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Residents' rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation, and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 142. KRS 605.090 is amended to read as follows:

(1) Any child committed to the cabinet may by the decision of the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days prior written notice to the court, discharged from commitment. Written notice of discharge must be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of his parents, or in a suitable foster home, family home or boarding home, upon such conditions as the cabinet may prescribe and subject to visitation and supervision by a family service worker. *At the time a committed child is placed in the home of his parents by the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;*

(c) Placed in one (1) of the facilities or programs operated by the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c) or (d) or any child ten (10) years of age or under shall be placed in an institution operated by the cabinet for children committed to the cabinet as delinquents;

(d) Placed in a child-caring institution operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section the cabinet shall, within fourteen (14) days (weekends and holidays, excluded) give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) *If a child committed to the cabinet as dependent, neglected or abused is placed in the home of his parents, the child shall not be removed except in accordance with the following standards and procedures:*

(a) If the family service worker believes that the committed child continues to be dependent, neglected or abused, but immediate removal is unnecessary to protect the child from imminent death or serious injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the family service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the district court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the family service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a family service worker finds a committed, unattended child who is too young to take care of himself, the family service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the family service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the district court to review the case;

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the family service worker may immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in district court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(3) The cabinet shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(4)[~~(3)~~] The person in charge of any home to which a child is probated, and the governing authority of any private institution or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the cabinet may require in the performance of its functions under the law. The cabinet shall have the power to make such visitations and inspections of the homes, institutions and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(5)[~~(4)~~] The cabinet may assist the courts in placing children who have committed public offenses in family homes or boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children in family homes or boarding homes and, to the extent authorized by the fiscal court, the cabinet may incur

obligations chargeable to the county for such expenses.

Section 143. The following KRS sections are repealed:

610.140	Appeals in dependency cases;
610.210	Peace officer may take child to court-approved custody center;
610.230	Detaining children in jails;
610.240	Detention longer than specified time;
610.260	Court options when detention exceeds specified time limits;
610.270	Failure to release to parent or other adult;
625.010	Definitions;
625.030	Putative father party to proceedings;
635.030	Dismissal of proceedings;
645.160	Rights of hospitalized child.

Section 144. Whereas, in order to properly protect children and to make the implementation of the Kentucky Unified Juvenile Code more efficient and just, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee Substitute to **HB 452** is as follows:

HB 452. AN ACT relating to the Kentucky Unified Juvenile Code and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 600.020 is amended to read as follows:

As used in KRS Chapters 600 to 645 unless the context otherwise requires:

(1) "Abused or neglected child" means a child whose health or welfare is harmed or threatened with harm when his parent, guardian or other person exercising custodial control or supervision of the child: inflicts or allows to be inflicted upon the child physical or emotional injury by other than accidental means; creates or allows to be created a risk of physical or emotional injury to the child by other than accidental means; commits or allows to be committed an act of sexual abuse, sexual exploitation, or prostitution upon the child; *creates or allows to be created a risk that an act of sexual abuse, sexual exploitation, or prostitution will be committed upon the child;* bandons or exploits such child; does not provide the child with adequate care, supervision, food, clothing, shelter and education or medical care necessary for the child's well-being. A parent or other person exercising custodial control or supervision of the child legitimately practicing his religious beliefs shall not be considered a negligent parent solely because he fails to provide specified medical treatment for a child for that reason alone. This exception shall not preclude a court from ordering necessary medical services for a child;

(2) *"Boarding home" means a privately owned and operated home for the boarding and lodging of individuals which is approved by the cabinet for the placement of children committed to the cabinet;*

(3) "Cabinet" means the cabinet for human resources;

(4) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who

have completed a course of education and training developed and approved by, the justice cabinet after consultation with the cabinet for human resources and other appropriate state agencies.

(5)[~~(3)~~] "Child" means any person who has not reached his eighteenth [~~(18th)~~] birthday unless otherwise provided;

(6) "Child-caring facility" means any facility or group home other than a state facility, or one certified by an appropriate agency as operated primarily for educational or medical purposes, providing residential care on a twenty-four (24) hour basis to children not related by blood, adoption or marriage to the person maintaining the facility;

(7) "Child-placing agency" means any agency, other than a state agency, which supervises the placement of children in foster family homes or child-caring facilities or which places children for adoption;

(8)[~~(4)~~] "Clinical treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of mentally ill children. The treatment program of such facilities shall be supervised by a qualified mental health professional;

(9) "Commitment" means an order of the court which places a child under the custodial control or supervision of the cabinet for human resources or another facility or agency until the child attains the age of eighteen (18) unless the committing court terminates or extends the order;

(10)[~~(5)~~] "Community-based facility" means any non-secure, homelike facility licensed, operated, or permitted to operate, by the cabinet, which is located within a reasonable proximity of the child's family and home community, which affords the child the opportunity, if a Kentucky resident, to continue family and community contact;

(11)[~~(6)~~] "Complaint" means a verified statement setting forth allegations in regard to the child which contain sufficient facts for the formulation of a subsequent petition;

(12)[~~(7)~~] "Court" means the juvenile session of district court;

(13)[~~(8)~~] "Court designated worker" means that organization or individual delegated by the administrative office of the courts for the purposes of placing children in alternative placements prior to arraignment, conducting preliminary investigations, and formulating, entering into and supervising diversion agreements and performing such other functions as authorized by law or court order;

[~~(9) "Delinquency action" is an action brought in the interest of a child who is accused of committing a public offense, which if committed by an adult would be a crime, whether the same is a felony, misdemeanor, or violation;~~]

(14)[~~(10)~~] "Department" means the department for social services;

(15)[~~(11)~~] "Dependent child" means any child, other than an abused or neglected child, who is under improper care, custody, control, or guardianship that is not due to an intentional act of the parent, guardian, or person exercising custodial control or supervision of the child;

(16) "Detain" means, upon a valid court order, to confine a child pending further proceedings in an intermittent holding facility, a juvenile holding facility, or a secure juvenile detention facility;

(17)[~~(12)~~] "Diversion agreement" means an agreement entered into between a court designated worker and a child charged with the commission of offenses set forth in KRS Chapters 630 and 635, the purpose of which is to serve the best interest of the child and to provide redress for those offenses without court action and without the creation of a formal court record;

(18)[~~(13)~~] "Emergency shelter" is a group home, private residence, foster home, or similar homelike facility which provides temporary or emergency care of children and adequate staff and services consistent with the needs of each child;

(19)[~~(14)~~] "Emotional harm" means harm to the mental or psychological capacity or emotional stability of a child as testified to by a qualified mental health professional. The age and development of the child shall be considered together with the child's culture or environment in the diagnosis and determination of emotional harm;

(20)[~~(15)~~] "Emotional injury" means[~~, except in KRS Chapter 625,~~] an injury to the mental or psychological capacity or emotional stability of a child as evidenced by a substantial and observable impairment in his ability to function within a normal range of performance and behavior with due regard to his age, development, culture and environment;

(21)[~~(16)~~] "Family service worker" means any employe of the cabinet or any private agency designated as such by the secretary of the cabinet or a social worker employed by a county or city who has been approved by the cabinet to provide, under its supervision, services to families and children;

(22)[~~(17)~~] "Foster family home" means a private home in which children are placed for foster family care under supervision of the cabinet or a licensed child-placing agency;

(23)[~~(18)~~] "Habitual runaway" means any child who has been found by the court to have been absent from his place of lawful residence without the permission of his custodian for at least three (3) days during a one (1) year period;

(24)[~~(19)~~] "Habitual truant" means any child who has been found by the court to have been absent from school without valid excuse for three (3) or more days *during a one (1) year period* or tardy for three (3) or more days on at least three (3) occasions during a one (1) year period;

(25)[~~(20)~~] "Hospital" means, except for purposes of KRS Chapter 645, a licensed private or public *facility* [~~institution~~], health care facility, or part thereof, which is approved by the cabinet to treat children;

(26) "Independent living" means those activities necessary to assist a committed child to establish independent living arrangements;

(27)[~~(21)~~] "Informal adjustment" means an agreement reached among the parties after a petition has been filed, which is approved by the court, that the best interest of the child would be served without formal adjudication and disposition;

(28) "Intentionally" means, with respect to a result or to conduct described by a statute which defines an offense, that the actor's conscious objective is to cause that result or to engage in that conduct;

(29)[~~(22)~~] "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(30) "Juvenile holding facility" means a physically secure setting, approved by the justice cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed exclusively by sufficient certified juvenile facility staff to provide twenty-four (24) hours per day supervision;

(31)[~~(23)~~] "Least restrictive alternative" means, except for purposes of KRS Chapter 645, that the program developed on the child's behalf is no more harsh, hazardous, or intrusive than necessary; or involves no restrictions on physical movements nor requirements for residential care except as reasonably necessary for the protection of the child from physical injury; and is conducted at the suitable available facility closest to the child's place of residence;

(32)[~~(24)~~] "Non-secure facility" means a facility which provides its residents access to the surrounding community and which does not rely primarily on the use of physically restricting construction and hardware to restrict freedom;

(33)[~~(25)~~] "Parent" means the biological or adoptive mother or father of a child;

(34)[~~(26)~~] "Person exercising [~~similar~~] custodial control or supervision" means a person *or agency that* [~~who~~] has assumed the role and responsibility of a parent or guardian for the child, but *that* [~~who~~] does not necessarily have legal custody of the child;

(35) "Petition" means a verified statement, setting forth allegations in regard to the child, which initiates formal court involvement in the child's case;

(36)[~~(27)~~] "Physical injury" means substantial physical pain or any impairment of physical condition;

(37)[~~(28)~~] "Public offense *action* [~~petition~~]" means *an action brought in the interest of a child who is accused of committing a public offense which, if committed by an adult, would be a crime, whether the same is a felony, misdemeanor, or violation, other than an action alleging that a child sixteen (16) years of age or older has committed a moving motor vehicle offense* [~~that document filed with the circuit clerk which incorporates the allegations of criminal conduct contained in the complaint and which states facts that establish the jurisdiction of the court for public offenses~~];

(38)[~~(29)~~] "Qualified mental health professional" means:

(a) A physician licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the performance of his official duties;

(b) A psychiatrist licensed under the laws of Kentucky to practice medicine or osteopathy, or a medical officer of the government of the United States while engaged in the practice of his official duties, and who is certified or eligible to apply for certification by the American Board of Psychiatry and Neurology, Inc.;

(c) A licensed psychologist at the doctoral level or certified at the master's level under the provisions of KRS Chapter 319 who has been designated by the Kentucky board of examiners of psychology as competent to make examinations under KRS Chapters 600 to 645;

(d) A licensed registered nurse with a master's degree in psychiatric nursing from an accredited institution and two (2) years of clinical experience with mentally ill persons, or a licensed registered nurse with a bachelor's degree in nursing from an accredited institution who is certified as a psychiatric and mental health nurse by the American Nurses Association and who has three (3) years of inpatient or outpatient clinical experience in psychiatric nursing and who is currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center; or

(e) A certified clinical social worker licensed for the independent practice of clinical social work under the provisions of KRS Chapter 335, or a certified social worker licensed under the provisions of KRS Chapter 335 with three (3) years of inpatient or outpatient clinical experience in psychiatric social work following certification and currently employed by a hospital or forensic psychiatric facility licensed by the Commonwealth or a psychiatric unit of a general hospital or a regional comprehensive care center;

(39)[~~(30)~~] "Residential treatment facility" means a facility with more than eight (8) beds designated by the cabinet for the treatment of children;

(40) "Retain in custody" means, after a child has been taken into custody, the continued holding of the child by a peace officer for a period of time not to exceed twelve (12) hours when authorized by the court or the court designated worker for the purpose of making preliminary inquiries;

(41)[~~(31)~~] "School personnel" means those certified persons under the supervision of the local public or private education agency;

(42)[~~(32)~~] "Secretary" means the secretary of the cabinet for human resources;

(43)[~~(33)~~] "Secure *juvenile* detention facility" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined;

(44)[~~(34)~~] "Secure facility for residential treatment" means any setting which assures that all entrances and exits are under the exclusive control of the facility staff, and in which a child may reside for the purpose of receiving treatment;

(45)[~~(35)~~] "Serious physical injury" means physical injury which creates a substantial risk of death or which causes serious and prolonged disfigurement, prolonged impairment of health or prolonged loss or impairment of the function of any bodily organ;

(46) "Sexual abuse" includes, but is not necessarily limited to, any contacts or interactions between a child and an adult in which the parent, guardian or other person having custodial control or supervision of the child or responsibility for his welfare, uses or allows, permits or encourages the use of the child for the purposes of the sexual stimulation of the perpetrator or another person;

(47)[~~(36)~~] "Sexual exploitation" includes but is not limited to a situation in which a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act which constitutes prostitution under Kentucky law; or a parent, guardian or other person having custodial control or supervision of a child or responsible for his welfare, allows, permits, or encourages the child to engage in an act of obscene or pornographic photographing, filming, or depicting of a child as provided for under Kentucky law;

(48)[~~(37)~~] "Status offense *action*" is any action brought in the interest of a child who is accused of committing acts, which if committed by an adult, would not be a crime. Such behavior shall not be *considered* [~~termed~~] criminal or delinquent; and such children shall [~~not~~] be *termed status offenders* [~~considered delinquent~~]. Status offenses *shall* [~~do~~] not include violations of state or local ordinances which may apply to children such as a violation of curfew or possession of alcoholic beverages;

(49) "Take into custody" means the procedure by which a peace officer or other authorized person initially assumes custody of a child. A child may be taken into custody for a period of time not to exceed two (2) hours;

(50)[~~(38)~~] "Violation" means any offense, other than a traffic infraction, for which a sentence of a fine only can be imposed; and

(51)[~~(39~~]) "Youthful offender" means any person regardless of age, transferred to circuit court under the provisions of KRS Chapter 640 *and who is subsequently convicted in circuit court.*

Section 2. KRS 605.030 is amended to read as follows:

(1) A court designated worker may:

(a)[~~(1)~~] Receive complaints;

(b) Review complaints taken by peace officers;

(c)[~~(2)~~] Investigate complaints except neglect, abuse, and dependency;

(d)[~~(3)~~] *Dispose* [~~Recommend disposition~~] of complaints;

(e) Administer oaths;

(f) Issue summonses;

(g) Issue subpoenas;

(h)[~~(4)~~] Make advisory dispositional recommendations and provide, within forty-eight (48) hours, exclusive of weekends and holidays, information concerning a child who has chosen to waive the investigation pursuant to KRS 610.100 for the use of the cabinet in placing the child;

[~~(5) Administer oaths;~~

~~(6)~~ ~~Issue summonses;~~

~~(7)~~ ~~Issue subpoenas;~~]

(i)[~~(8)~~] Perform such duties as required by KRS Chapter 645;

(j)[~~(9)~~] Make such other determinations as authorized or directed by the courts; and

(k)[~~(10)~~] Perform such other functions related to activities of children as may be authorized or directed by the court.

(2) Upon the filing of a petition which initiates a formal court action in the interest of the child, the court designated worker's involvement, with the exception of the activities defined in subsection (1)(h) of this section, shall cease.

Section 3. KRS 605.040 is amended to read as follows:

A court designated worker shall not:

(1) Issue arrest or search warrants;

(2) Supervise a child following his adjudication when the child is committed to the cabinet or placed on probation under the supervision of the cabinet *or any other agency or individual;*

(3) Perform any clerical work not directly related to required juvenile activities; or

(4) Investigate child abuse, neglect, or dependency *allegations* [~~complaints~~] but shall refer such actions to the cabinet.

Section 4. KRS 605.050 is amended to read as follows:

(1) In counties containing a city of the first or second class, the county judge/executive may appoint a chief probation officer of the juvenile court and such number of assistant probation officers, professional and clerical personnel as may be authorized by the fiscal court. Such officers shall receive reasonable salaries to be fixed by the fiscal court, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the county treasury. The officers shall serve at the pleasure of the county judge/executive but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers, *who shall possess* [~~with~~] all the powers of *peace officers* [~~the sheriff~~] in [~~making arrests and~~] carrying out the purposes of *KRS Chapters 600 to 645* [~~this chapter~~]. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his [~~or her~~] probation[~~, and may detain such child for appropriate action by the court~~].

(2) In counties containing an urban-county government, the mayor shall appoint a chief probation officer of the juvenile session of the district court and such number of assistant probation officers, professional and clerical personnel as are reasonably necessary for the operation of the juvenile session of the district court. Such officers shall receive reasonable salaries to be fixed by the urban-county council, and shall be allowed their actual and necessary expenses incurred in the performance of their duties. The salaries and expenses shall be paid out of the urban-county treasury. The officers shall serve at the pleasure of the mayor but shall be subject to the direction and control of the judges of the district court in the performance of their duties. The officers shall be peace officers, *who shall possess* [~~with~~] all the powers of *peace officers* [~~the sheriff~~] in [~~making arrests and~~] carrying out the purposes of *KRS Chapters 600 to 645* [~~this chapter~~]. A probation officer may take into custody any child that he has reasonable grounds to believe is in violation of conditions of his [~~or her~~] probation[~~, and detain such child for appropriate action by the court~~].

(3) In any county, the chief district judge may appoint or designate one or more discreet persons of good moral character to serve as volunteer probation officers or court appointed special advocates of the juvenile session. Such volunteer probation officers shall serve during the pleasure of the judge and without compensation, except that the fiscal court or the urban-county council, as appropriate, may authorize the

payment of compensation and reasonable expenses out of the county or urban-county treasury of any such officers. No court appointed special advocate shall receive compensation from state or county funds but reasonable expenses may be paid.

Section 5. KRS 605.060 is amended to read as follows:

Probation officers of the court shall:

(1) Except as otherwise provided in KRS Chapter 645, make investigations as provided in this chapter.

(2) Be present in court to represent the interest of the child when the cases investigated by them are heard; furnish such information as may be required; advise [~~with~~] the court as to the proper disposition of the case and take such charge of the child before and after the hearings as may be ordered;

(3) Visit and supervise children placed on probation and as far as practicable, aid and encourage such children, by friendly advice and admonition, to keep terms of their probation, and provide for their rehabilitation;

(4) Make such reports and records as may be required by the court;

(5) Supervise the transfer of children to and from homes or *facilities* [~~institutions~~] as directed by the court; and

(6) Work in cooperation with the representatives of the *cabinet* [~~department~~].

Section 6. KRS 605.080 is amended to read as follows:

(1) Any peace officer who conveys a child from the committing court or from the detention facility of the committing court to *a residential treatment facility* [~~an institution~~] or *other* facility operated by the cabinet shall be allowed an amount prescribed by regulation adopted by the finance and administration cabinet calculated by the nearest traveled route, and shall be paid for all necessary expenses for feeding, lodging and transporting the child. The officer shall make out a full account of all expenses so incurred by him and give the distance traveled. The account shall be verified by the officer upon oath before the district court and certified by the circuit clerk to the cabinet, for payment out of funds appropriated to the cabinet for this purpose. The child's presence shall be necessary at a post-dispositional proceeding only as required by court order. Expenses for transportation of a child to such a proceeding from *a residential treatment facility* [~~an institution~~] or *other* facility operated by the cabinet shall be paid out of the state treasury.

(2) No child shall be transported to any *residential treatment facility or other facility* [~~institution~~], pursuant to order of any court or direction of the cabinet, unless accompanied by an attendant of the same gender, or, when authorized in writing by the court or cabinet, by a parent, grandparent, or adult brother or sister.

(3) The agent of any *residential treatment facility or other facility which* [~~institution who~~] receives a child transported to the *facility* [~~institution~~] shall report any violation of subsection (2) of this section to the commonwealth's attorney of the judicial circuit in which the *facility* [~~institution~~] is located.

(4) The cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the residential treatment facility or other facility or home to which they are committed, and the traveling expenses of such children from the facility or home to their homes when discharged or placed on supervised placement.

Section 7. KRS 605.090 is amended to read as follows:

(1) Any child committed to the cabinet may by the decision of the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days prior written notice to the court, discharged from commitment. Written notice of discharge must be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of his parents, [~~or in~~] a suitable foster home, [~~family home~~] or boarding home, upon such conditions as the cabinet may prescribe and subject to visitation and supervision by a family service worker;

(c) Placed in one (1) of the facilities or programs operated by the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c) or (d) or any child ten (10) years of age or under shall be placed in *a facility* [~~an institution~~] operated by the cabinet for children *adjudicated* [~~committed to the cabinet~~] as *public offenders* [~~delinquents~~];

(d) Placed in a child-caring *facility* [~~institution~~] operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section the cabinet shall, within fourteen (14) days (weekends and holidays, excluded) give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) The cabinet shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(3) The person in charge of any home to which a child is probated, and the governing authority of any private *facility* [~~institution~~] or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the cabinet may require in the performance of its functions under the law. The cabinet shall have the power to make such visitations and inspections of the homes, *facilities* [~~institutions~~] and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(4) The cabinet may assist the courts in placing children who have committed public offenses in [~~family homes or~~] boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children [~~in family homes or boarding homes~~] and, to the extent authorized by the fiscal court, the cabinet may incur obligations chargeable to the county for such expenses.

Section 8. KRS 605.100 is amended to read as follows:

(1) The cabinet shall arrange for a program of care, treatment and rehabilitation of the children committed to it, which program shall be designed to provide for classification, segregation and specialized treatment of children according to their respective problems, needs and characteristics, and to provide a coordinated system of probation and parole services.

(2) The cabinet shall be responsible for the operation, management and development of the existing state [~~institutional physical~~] facilities for the custodial care and rehabilitation of children committed to the cabinet under provisions of this chapter. The cabinet shall further be responsible for the development of such [~~institutional physical~~] facilities [~~and other physical facilities~~] as are necessary to provide an adequate and modern program for the care, treatment and rehabilitation of such children.

(3) The facilities and programs under the control of the cabinet shall be designed and operated in such a manner as to rehabilitate, train, develop and educate the children to become good citizens and useful members of society.

(4) Suitable programs of vocational education and training shall be carried on in the facilities and programs, with the view of preparing the children for future self-support.

(5) The children in each facility and program shall be employed so far as practicable in labor incident to the maintenance and operation of the facility and program, and in suitable industries conducted by the facilities and programs as a part of the vocational training program.

(6) The superintendent or managing officer of each *facility* [~~institution~~] may use, for the maintenance of the *facility* [~~institution~~], the products of farms, dairies, and other departments and industries of the *facility* [~~institution~~], or may sell or exchange such products for the benefit of the *facility* [~~institution~~].

Section 9. KRS 605.110 is amended to read as follows:

(1) Unless provided otherwise, when any child committed to the cabinet requires medical or surgical care or treatment, the cabinet may provide the same or arrange for the furnishing thereof by other public or private agencies, and may give consent to such medical or surgical treatment. For this purpose, the services and facilities of local health officers and departments shall be made available to the cabinet, and as far as practicable any publicly-owned hospital shall provide hospitalization without charge for any such child who is a resident of the political subdivision by which the hospital is owned or operated. This section does not authorize nor shall permission be granted for abortion or sterilization.

(2) Any child placed in a foster [~~family~~] home by an agency duly authorized in KRS Chapter 620 to place a child in a foster [~~family~~] home shall receive a complete medical, visual, and dental examination by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. *Arrangements for a* [~~Any~~] child placed in a foster [~~family~~] home *to* [~~shall~~] receive such examinations *shall be made* within two (2) weeks of *his placement* [~~being placed~~] in a foster [~~family~~] home and not less than every twelve (12) months thereafter.

(3) Children maintained in any of the facilities and programs operated by the cabinet shall so far as possible receive a common school education. Those children requiring segregation, restraint or specialized treatment shall be provided supplemental or special education. The department of education, to the extent of available facilities, shall assist and cooperate with the department in the educational programs for the facilities and programs. Administrative regulations shall be promulgated by the cabinet in cooperation with the Kentucky department of education regarding the education of children in state agency programs operated or contracted by the cabinet for children requiring services in day treatment, residential facilities, mental retardation facilities and clinical programs. Administrative regulations shall include but not be limited to certification of teachers, curriculum offerings, accreditation, transfer of credits, affected eligibility for sports programs and extra curricular activities, transition to and from local education agencies, use of state agency children's funds, implementation of Public Law 94-142, as amended, in-service training of teachers, supervision and evaluation of teachers, discipline of children, educational assessment which includes testing for Kentucky essential skills, library services, provision and use of state adopted text books, and administrative structure of individual programs.

Section 10. KRS 605.120 is amended to read as follows:

The cabinet is authorized to expend available funds to provide for the board, lodging and care of children placed by the cabinet in a *foster* [~~family~~] home or boarding home, or may arrange for payments or contributions by any local governmental unit, or public or private agency or organization, willing to make payments or contributions for such purpose. The cabinet may accept any gift, devise or bequest made to it for its purposes. [~~The cabinet may pay the necessary traveling expenses of children committed to it for care and treatment from their homes to the institutions or homes to which they are committed, and the traveling expenses of such children from the institutions to their homes when discharged.~~]

Section 11. KRS 605.130 is amended to read as follows:

In addition to the other duties, functions, and responsibilities imposed by law, the cabinet, through its authorized representatives, shall have general supervision and management of all matters contained in KRS 605.090, 620.150, and 620.170 and shall, wherever possible:

(1) Locate and plan for all children who are dependent, neglected, *or* abused[~~, or abandoned~~];

(2) Cooperate with and assist the courts of the various counties;

(3) Assist circuit courts through services to children whenever requested by the court. The cabinet may charge a reasonable fee for such services to be taxed as costs by the court; and

(4) Perform such other services as may be deemed necessary for the protection of children.

Section 12. KRS 605.140 is amended to read as follows:

(1) The chief district judge may appoint a board of not less than six (6) nor more than ten (10) reputable inhabitants *of the county* to be called the advisory board of the juvenile court. The members of the board shall hold office during the pleasure of the judge, and shall serve without compensation.

(2) The board shall visit at least once a year all *facilities* [~~institutions~~] in the county receiving children under *KRS Chapters 600 to 645* [~~this chapter, and may visit any family home or boarding home in the county receiving children under this chapter~~]. At least two (2) of the members of the board shall go together on the visits, and shall make a report to the board. The board shall report to the [~~juvenile~~] court from time to time the condition of the children in the *facilities* [~~institutions or homes~~] and shall make an annual report to the [~~juvenile~~] court.

(3) The board shall advise and cooperate with the chief district court judge upon all matters affecting the workings of *KRS Chapters 600 to 645* [~~this chapter~~], and shall recommend to the court any needful measures for the purpose of carrying out the provisions of *KRS Chapters 600 to 645* [~~this chapter~~]. The appointment and utilization of such advisory boards by each district court judge is recommended by the general assembly as a matter of policy.

Section 13. KRS 605.990 is amended to read as follows:

(1) Any person who *intentionally* violates any provision of this chapter, other than KRS 605.080(3) shall be guilty of a Class B misdemeanor.

(2) Any person who *intentionally* violates KRS 605.080(3) shall be guilty of a violation.

Section 14. KRS 610.010 is amended to read as follows:

(1) Unless otherwise exempted by KRS Chapters 600 to 645, the juvenile session of the district court of each county shall have exclusive jurisdiction in proceedings concerning any child living[~~,~~] or found within the county who has not reached his eighteenth [~~(18th)~~] birthday or of any person who at the time of committing a public offense was under the age of eighteen (18) years, who *allegedly*:

(a) Has committed a public offense *prior to his eighteenth birthday*, except a moving motor vehicle offense involving a child sixteen (16) years of age or older. *A child* [~~The court shall not have jurisdiction in any prosecution of a moving motor vehicle offense involving a child sixteen (16) years of age or older. Juvenile offenders~~] sixteen (16) years of age or older *taken into custody upon the allegation that he has committed a moving motor vehicle offense shall be treated as an adult and shall have the same conditions of release applied to him as an adult. A child taken into custody upon the allegation that he has committed a moving motor vehicle offense who is not released under conditions of release applicable to adults shall be held, pending his appearance before the district court, in a secure juvenile detention facility or a juvenile holding facility or, if neither is available, in an intermittent holding facility. Children sixteen (16) years of age or older who are convicted of, or plead guilty to, a moving motor vehicle offense shall, if sentenced to a term of confinement, be placed in a secure juvenile detention facility or a juvenile holding facility.* [~~accused of or convicted of or pleading guilty to moving motor vehicle offenses, shall, if detention is required, be placed in a jail or other place of detention for adults, except in a room or ward entirely separate from adult prisoners; provided, however, that~~] The term "moving motor vehicle offense" shall not be deemed to include the offense of stealing or converting a motor vehicle nor operating the same without the owner's consent, nor any offense which constitutes a felony;

(b) *Has* [~~Does~~] not *subjected* [~~subject~~] himself to the reasonable control of his *parent or* [~~parents, teacher,~~] guardian, *school personnel* or other person exercising custodial control or supervision *of the child*[~~, by reason of being wayward or habitually disobedient~~];

(c) Is an habitual truant from school;

(d) *Is* [~~Has been~~] an habitual runaway from his parent or *other* person exercising custodial control or supervision of the child;

(e) Is [~~found by the court to be~~] dependent, neglected, or abused; or

(f) Is [~~found by the court to be~~] mentally ill.

(2) Actions brought under subsection (1)(a) of this section shall be considered to be *public offense* [~~delinquency~~] actions.

(3) Actions brought under subsection (1)(b), (c), and (d) of this section shall be considered to be status *offense* actions.

(4) Actions brought under subsection (1)(e) of this section shall be considered to be dependency actions.

(5) Actions brought under subsection (1)(f) of this section shall be considered to be mental health actions.

(6) [~~In addition to informal adjustment, the court shall have the discretion to amend the complaint to reflect jurisdiction pursuant to the proper chapter of the Juvenile Code.~~] Nothing in this chapter shall deprive other courts of the jurisdiction to determine the custody or guardianship of children upon writs of habeas corpus, or to determine the custody or guardianship of children when such custody or guardianship is incidental to the determination of other causes pending in such other courts; nor shall anything in this chapter affect the jurisdiction of circuit courts over adoptions and proceedings for termination of parental rights. The court shall have no jurisdiction to make permanent awards of custody of a child, but if the court finds an emergency to exist affecting the welfare of a child, it may make temporary orders for his custody however, if the case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed. Such orders shall be entirely without prejudice to the proceedings for permanent custody of the child, and shall remain in effect until modified or set aside by the court. Upon the entry of a temporary or final judgment in the circuit court awarding custody of such child, all prior orders of the juvenile session of the district court in conflict therewith shall be deemed cancelled. This section shall not work to deprive the circuit court of jurisdiction over cases filed in circuit court.

(7) The court of each county wherein a public offense, as defined in paragraph (a) of subsection (1) of this section, is committed by a child who is a resident of another county of this state, shall have concurrent jurisdiction over such child with the court of the county wherein the child resides, or the court of the county where the child is found. Whichever court first acquires jurisdiction of such child may proceed to final disposition of his case, or, in its discretion may make an order transferring the case to the court of the county of his residence, or the county wherein the offense was committed, as the case may be.

(8) [~~The court shall have exclusive jurisdiction of persons charged with violations of KRS 530.060 and 530.070. Any person over whom the court has jurisdiction under this subsection shall be entitled to a trial by jury.~~

~~(9)~~] In the event a child who has not reached his eighteenth [~~(18th)~~] birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court shall have exclusive, original jurisdiction of the new offense.

(9) Nothing in this chapter shall prevent the district court from holding a child in contempt of court to enforce orders previously issued by the court.

(10) Nothing in this chapter shall confer upon the district court jurisdiction over the actions of the cabinet in the placement, care, or treatment of a child committed to the cabinet; or to require the cabinet to perform, or to refrain from performing, any specific act in the placement, care or treatment of any child committed to the cabinet, provided the district court shall have jurisdiction to review a dispositional order as provided in KRS Chapters 620, 630, 635 and 645 and to make orders pursuant to KRS 635.090.

(11) In addition to informal adjustment, the court shall have the discretion to amend the petition to reflect jurisdiction pursuant to the proper chapter of the Kentucky Unified Juvenile Code.

Section 15. KRS 610.030 is amended to read as follows:

Except as otherwise provided in KRS Chapters 600 to 645:

(1) *If* [~~Whenever~~] any person files a complaint [~~with the court~~] alleging that a child, except a *child alleged to be* neglected, abused, [~~or~~] dependent *or mentally ill who is* [~~child,~~] subject to the jurisdiction of the court, may be within the purview of KRS Chapters 600 to 645, a preliminary *intake* inquiry shall be conducted by the court designated worker to determine the validity of the complaint, and, if valid, whether the interests of the child or the public require that further action be taken;

(2) The court designated worker after conducting the preliminary *intake* inquiry shall:

(a) With notice to complainant:

1. Determine that no further action be taken *and dispose of the complaint*;

2. Refer to an appropriate individual or social service agency for proper action;

3. Enter into diversionary agreement;

4. Refer to court for informal adjustment; or

5. Refer to court for formal hearing;

(3) If the court designated worker determines that the complaint should be referred to the court for either informal adjustment or for formal hearing under subsection (2)(a)4. or 5. of this section, the complaint and findings of the court designated worker's preliminary *intake* inquiry shall be submitted to the court for the court to determine whether process should issue;

(4) At any stage in the proceedings described in this section, the court or the county attorney may review any decision of the court designated worker. The court upon its own motion or upon written request of the county attorney may refer any complaint for a formal hearing.

Section 16. KRS 610.040 is amended to read as follows:

(1) After a *petition* [~~complaint~~] has been filed and after such further investigation as the court may direct, unless the parties appear voluntarily, the court shall issue a summons briefly reciting the substance of the *petition* [~~complaint~~] and requiring the person who has the custody or control of the child to appear personally and bring the child before the court at a time and place stated. If the person so summoned is other than a parent or guardian of the child, the parent or guardian or both shall also be notified of the pendency of the proceeding and of the time and place appointed. Summons may be issued requiring the appearance of any other person whose presence, in the opinion of the judge, is necessary.

(2) The summons and notice provided for in subsection (1) of this section shall be served personally by the delivery of a copy thereof to the person summoned, unless the judge is satisfied that personal service would be impracticable, in which event the judge may order service by mail addressed to the last known address. Service by mail shall be deemed to be effected upon mailing. Notice by mail shall be presumed sufficient if mailed at least forty-eight (48) hours before the time for appearance specified in the summons or notice.

(3) Unless otherwise provided, service of summons or notice may be made by any suitable person, other than an employe of the cabinet, under the direction of the court, and upon request of the court shall be made by any peace officer.

(4) Any person summoned who, without reasonable cause, fails to appear, may be proceeded against for contempt of court. In case the summons cannot be served, or the parties served fail to appear, or in any case when it appears to the judge that the service will be ineffectual, or that the welfare of the child requires that he be brought forthwith before the court, a warrant may be issued for the parent, guardian, person having custodial control or supervision of the child, or the child.

Section 17. KRS 610.050 is amended to read as follows:

If it appears to the court, by affidavit or by sworn testimony, that the child is a danger to himself or the community, or is in such condition or surroundings that his welfare is being harmed or threatened with harm to such a degree that his best interest requires that his custody be immediately changed by the court from the original custodian to another, the judge may sign an order giving temporary custody of the child to a suitable custodian. However, if this case involves allegations of dependency, neglect or abuse, no emergency removal or temporary custody orders shall be effective unless the provisions of KRS Chapter 620 are followed; and if the case involves allegations of mental illness, the provisions of KRS Chapter 645 shall be followed. As a part of such order, the court may direct that the child shall be taken into custody by the peace officer serving the summons or by any other peace officer and placed as directed by the court. In any event, a copy of the temporary custody order shall be served on the parent, guardian or other person exercising custodial control or supervision of the child when the summons is served. The temporary custody order shall be effective until the case is heard on its merits, or until modified by the court. As a result of such order, the child shall be placed in custody and care in a [~~family~~] home or other suitable facility.

Section 18. KRS 610.060 is amended to read as follows:

If the court determines that a formal proceeding is required in the interest of the child or to determine the truth or falsity of the allegations against the child, a *petition* [~~complaint, sworn to by the complainant,~~] shall be required pursuant to KRS 610.020, and the court shall, when the child is brought before the court:

(1) Explain to the child and his parents, guardian, or person exercising custodial control their respective rights to counsel and, if the child and his parents, guardian, or person exercising custodial control are unable to obtain counsel, shall appoint counsel for the child and, unless specified to the contrary by other provisions of KRS Chapters 600 to 645, may appoint counsel for the parents, guardian, or person exercising custodial control;

(2) Explain the right against self-incrimination by saying that the child, parents, relative, guardian, or custodian may remain silent concerning the charges against the child, and that anything said may be used against the child;

(3) Unless limited by statute, explain the right to confront anyone who has accused the child and to cross-examine that person on the allegations made against the child;

(4) Advise the child and his parents, guardian, or person exercising custodial control of the right to appeal from a determination of the court;

(5) Advise the child that these rights belong to him and may not be waived by his parents, guardian, or person exercising custodial control;

(6) Unless otherwise exempted in KRS Chapters 600 to 645, a child and *his* [~~its~~] parents or person exercising custodial control shall have a right to attend the hearing if such attendance will not unnecessarily delay the hearing; and

(7) The court may order parents to pay for counsel for the child if the court determines that the parent has the ability to pay for such counsel.

Section 19. KRS 610.070 is amended to read as follows:

(1) All cases involving children brought before the court shall be granted a speedy hearing and shall be dealt with by the court without a jury [~~except that a trial by jury may be had in accordance with the provisions of KRS 610.010(8)~~].

(2) The hearings shall be conducted in a formal manner, unless specified to the contrary by other provisions of KRS Chapters 600 to 645.

(3) The general public shall be excluded and only the immediate families or guardians of the parties before the court, witnesses necessary for the prosecution and defense of the case, the probation worker with direct interest in the case, such persons admitted as the judge shall find have a direct interest in the case or in the work of the court, and such other persons as agreed to by the child and his attorney may be admitted to the hearing. Witnesses shall be admitted to the hearing only for the duration of their testimony.

Section 20. KRS 610.080 is amended to read as follows:

Juvenile proceedings shall consist of two (2) distinct hearings, an adjudication and a disposition, which *shall* [~~may, upon motion of the child,~~] be held on separate days *unless the child waives the right to a formal predisposition investigation report and moves that the hearings be held the same day.*

(1) The adjudication shall determine the truth or falsity of the allegations in the *petition* [~~complaint~~] and shall be made on the basis of an admission or confession of the child[~~, parent, or person exercising custodial control or supervision~~] to the court or by the taking of evidence.

(2) Unless otherwise exempted, upon motion by any child brought before the court on a *petition* [~~complaint~~] under KRS 610.010(1)(a), (b), (c) or (d), the Rules of Criminal Procedure shall apply. All adjudications shall be supported by evidence beyond a reasonable doubt, unless specified to the contrary by other provisions of KRS Chapters 600 to 645. For actions under KRS 610.010(1)(e) the Kentucky Rules of Civil Procedure shall apply.

Section 21. KRS 610.100 is amended to read as follows:

(1) Unless there is a suitable prior disposition investigation report or unless waived by the child, before making disposition of the case of a child brought before the court under the provisions of KRS Chapters 630 or 635, whether by complaint pursuant to KRS 610.020, or by reason of having been taken into custody pursuant to KRS 610.190, the judge shall cause an investigation to be made, concerning the nature of the specific act complained of, and any surrounding circumstances which suggest the future care and guidance which should be given the child. The investigation shall include an inquiry into the child's age, habits, school record, general reputation and everything that may pertain to his life and character. The investigation shall also include an inquiry into the home conditions, life and character of the person having custody of the child. The investigation shall also include an assessment of the parent or guardian's ability to pay all or part of the cost of the child's care and treatment should the child be ordered into a treatment program or placed on supervised probation. The result of the investigation shall be reported in writing to the *court and to counsel for the parties three (3)* [~~judge five (5)~~] days prior to the child's dispositional hearing, and shall become a part of the record of the proceedings. *The child may waive the three-day requirement.* Objections by counsel at the dispositional hearing to portions of the dispositional report shall be noted in the record.

(2) The investigation shall be conducted by volunteer or salaried probation officers of the juvenile court or by a suitable public or private agency. The cabinet may furnish investigation services under agreements with the individual juvenile courts. For this purpose, any county judge/executive or chief executive officer of an urban-county government may enter into a contract on behalf of his county with the cabinet for the furnishings of such services.

(3) Upon the court's motion or the motion of any party, an informal adjustment may be made at any time during the proceedings.

Section 22. KRS 610.110 is amended to read as follows:

(1) The disposition shall determine the action to be taken by the court on behalf of, and in the best interest of, the child under the provisions of KRS Chapter 630 or 635.

(2) At the disposition all information helpful in making a proper disposition, including oral and written reports, shall be received by the court in compliance with subsection (1) of this section and relied upon to the extent of their probative value, provided that the parties or their counsel shall be afforded an opportunity to examine and controvert the reports.

(3) The court shall notify the law enforcement agency of the child's county of residence and the law enforcement agencies where any offense was committed of the disposition of each case and of each child committed by the court who is placed in a residential treatment facility by the *cabinet* [~~department~~].

(4) *If* [~~Whenever~~] any court commits a child to the cabinet, *a child-caring facility or child-placing* [~~or whenever a juvenile court commits a child to any institution or~~] agency, the court shall cause to be transmitted to the cabinet, *facility* [~~institution~~] or agency a certified copy of the commitment order, together with a summary of the court's information concerning the child. A certified copy of the court order shall be proof of the authority

of the cabinet, *facility* [~~institution~~] or agency to hold the child. Such certified order shall be sufficient authority for any law enforcement officer to take into custody any person named therein and deliver him to such a place as shall be directed by the cabinet, *facility* [~~institution~~] or agency given custody of him in the order.

(5) In placing a child on probation in a [~~family~~] home or boarding home, or in committing a child to a *child-caring facility* [~~private institution~~] or *child-placing* agency, the court shall as far as practicable select a home, *facility* [~~institution~~] or agency operated or governed by persons of a similar religious faith as the parents of the child.

(6) Upon motion of the child and agreement of the cabinet, the court may authorize an extension of commitment up to age twenty-one (21) for the purpose of permitting the cabinet to assist the child in establishing independent living arrangements if a return to the child's home is not in his best interest.

Section 23. KRS 610.120 is amended to read as follows:

(1) Except as otherwise provided by KRS Chapter 635, an order of commitment or an order of protective supervision or probation made by the court in the case of a child may be reviewed, continued, or terminated at any time prior to expiration on the court's own initiative or on motion by:

(a) A child who is affected by an order of juvenile session of district court;

(b) The family, custodian, guardian, or legal representative of such a child;

(c) The county attorney of the county in which the committing court presides; or

(d) Any other person having an interest in the welfare of the child.

(2) Grounds for such action may include but are not limited to allegations that there has been a substantial change of material circumstances, there exists new evidence affecting the disposition of the child, the child is no longer in need of commitment, probation, or placement, the child has not responded to or benefited from treatment or the child has not received adequate and proper treatment, the original proceedings were not conducted in the manner required by law or the public interest requires termination of the order. Upon review of the child's case, the cabinet, any agency, *facility* [~~institution~~] or individual responsible for the supervision, care or treatment of the child, shall divulge and communicate such information regarding the child as the court may require.

Section 24. KRS 610.130 is amended to read as follows:

Unless otherwise exempted, an appeal to the circuit court may be taken as a matter of right from the juvenile session of the district court from dispositional orders under KRS 610.110. The appeal shall be taken in the manner provided in the Rules of *Criminal* [~~Civil~~] Procedure, and the circuit court shall, in the best interest of the child, hear such cases expeditiously.

Section 25. KRS 610.170 is amended to read as follows:

If it appears from the investigation required in KRS 610.100 or otherwise that the parent or other person exercising custodial control or supervision of any child, or the estate of any child, who has been found to fall within the purview of KRS Chapters 600 to 645 and who has been left in his own home or in the home of a relative, placed on probation or placed in a foster home or boarding home, or in the care of a public or private *facility* [~~institution~~] or agency, or the cabinet, is able to contribute to the support of the child, the court shall, *if a petition has been filed*, enter an order requiring the parent or estate to pay a reasonable sum for the support, maintenance or education of the child. The order shall direct that the money be paid to the circuit clerk to be disbursed as ordered by the court or be paid to the person, *facility* [~~institution~~], agency or *cabinet* [~~department~~] to which the child was committed or probated. On application and on such notice as the court may direct, the court may make alterations in the requirement for contribution. The court may issue such orders necessary to compel payment of the sum due. The enforcement of a sentence imposed on a parent who fails to comply with the order of the court may be suspended at the discretion of the court, but the suspension may be revoked at the discretion of the court upon the failure of the parent to obey further orders of the court.

Section 26. KRS 610.180 is amended to read as follows:

A parent or other person exercising custodial control or supervision of a child is charged with the control of such child and shall have the power to exercise parental control and authority over such child. In any case where a child is *adjudicated a public offender* [~~found delinquent~~] and placed on probation, if the court finds at the hearing that the person having custody of such child has failed or neglected to subject him to reasonable parental control and authority, and that such failure or neglect is the proximate cause of the act or acts of the child upon which the *adjudication* [~~finding of delinquency~~] is based, the court may require such parent to enter into a recognizance with sufficient surety, in an amount of not more than five hundred dollars ($500), conditioned upon the faithful discharge of the conditions of probation of such child. If the child thereafter commits a second act and is by reason thereof *adjudicated a public offender* [~~found delinquent~~], or violates the conditions of probation, and the court finds at the hearing that the failure or neglect of such parent to subject him to reasonable parental control and authority or to faithfully discharge the conditions of probation of such child on the part of such parent, is the proximate cause of the act of the child upon which such second finding [~~of delinquency~~] is based, or upon which such child is found to have violated the conditions of his probation, the court may declare all or a part of the recognizance forfeited and the amount of such forfeited recognizance shall be applied in payment of any damages which may have been caused by such child, if there be such damages, otherwise, the proceeds therefrom, or part remaining after the payment of damages as aforesaid, shall be retained by the court to apply to any future damages resulting from the act or acts of said child before he reaches his eighteenth [~~(18th)~~] birthday, at which date the remaining proceeds shall be returned to the parent or guardian. The provisions of this section as it relates to failure or neglect of parents to subject a child to reasonable parental control and authority shall be in addition to and not in substitution for any other sections of *KRS Chapters 600 to 645* [~~this chapter~~] relating to failure or neglect to exercise such parental control or authority. The provisions of this section shall not apply to foster parents.

Section 27. KRS 610.190 is amended to read as follows:

(1) The law relating to the persons by whom and the circumstances under which a person may be arrested for a public offense shall be applicable to children, but the taking of a child into custody under such law shall not be termed an arrest. The law relating to bail shall not be applicable to children detained in accordance with this chapter.

(2) When a child is taken into custody by a person other than a peace officer, [~~on a charge of committing a public offense,~~] such person shall as soon as possible place the child in the custody of a peace officer.

Section 28. KRS 610.200 is amended to read as follows:

(1) When a peace officer has taken or received a child into custody on a charge of committing an offense, the officer shall immediately inform the child of his constitutional rights and afford him the protections required thereunder, notify the parent, or if the *child is committed, the cabinet, and if the* parent is not available, then a relative, guardian, [~~or~~] person exercising custodial control or supervision of the child, that the child has been taken into custody, give an account of specific charges against the child, including the specific statute alleged to have been violated, and the reasons for *taking* the *child into custody* [~~detention, and state the time and place of the detention hearing~~].

(2) Unless the nature of the offense or other circumstances are such as to indicate the necessity of *retaining* [~~keeping~~] the child in [~~secure~~] custody, the officer shall release the child to the custody of his parent *or if the child is committed, the cabinet; or if the parent is not available, then a relative, guardian, person exercising custodial control or supervision* or other responsible *person* [~~adult~~] upon the written promise, signed by such person, to bring the child to the court at a stated time or at such time as the court may order. The written promise, accompanied by a written report by the officer, shall be submitted *forthwith* to the court *or court designated worker and shall detail the reasons for having taken custody of the child, the release of the child, the person to whom the child was released, and the reasons for the release* [~~forthwith~~].

(3) If the person fails to produce the child as agreed or upon notice from the court, a *summons* [~~petition~~], warrant, or *custody order* [~~both~~] may be issued for the apprehension of the person or of the child, or both.

(4) The release of a child pursuant to this section shall not preclude a peace officer from proceeding with a complaint against a child or any other person.

(5) If the child is not released, the peace officer shall contact the court designated worker who may:

(a) Release the child to his parents;

(b) Release the child to such other persons or organizations as are authorized by law;

(c) Release the child to either of the above subject to sated conditions; or

(d) Authorize the peace officer to retain custody of the child for an additional period not to exceed twelve (12) hours during which the peace officer may transport the child to a secure juvenile detention facility or juvenile holding facility. If the child is retained in custody, the court designated worker shall give notice to the child's parents or person exercising custodial control or supervision of the fact that the child is being retained in custody.

Section 29. KRS 610.220 is amended to read as follows:

(1) *If an officer takes or receives a child into custody, the* [~~A~~] child may be *held* [~~detained~~] at a police station, secure *juvenile* detention facility, *juvenile holding facility,* intermittent holding facility, the offices of the court designated worker, or, as necessary, in a hospital or clinic for the following purposes:

(a) Identification and booking;

(b) Attempting to notify the parents or person exercising custodial control *or supervision* of the child, *a relative, guardian or other responsible person;*

(c) Photographing;

(d) Fingerprinting;

(e) Physical examinations, including examinations for evidence;

(f) Evidence collection, including scientific tests;

(g) Records checks; and

(h) Other inquiries of a preliminary nature.

(2) *A child may be held in custody* [~~Detention~~] pursuant to this section *for a period of time* [~~shall~~] not *to* exceed two (2) hours, unless *an* [~~specified to the contrary in other provisions of KRS Chapters 600 to 645, without permission for~~] extension *of time is granted* [~~of detention time~~]. Permission for *an* extension of [~~detention~~] time may be granted by the court, [~~or~~] trial commissioner, *or court designated worker pursuant to KRS 610.200(5)(d) and the child may be retained in custody in facilities listed in subsection (1) of this section for the period of retention* [~~upon good cause shown as to the necessity therefor~~].

Section 30. KRS 610.250 is amended to read as follows:

If a decision is made by a court designated worker or by the court to release *an alleged status or public offender who has been placed in detention* [~~a child~~] subject to certain conditions prior to his detention hearing as authorized by KRS 610.280, the child may be *detained* [~~retained in custody~~] until the conditions for release, which shall be set forth in writing and shall become a part of the record in the case, have been met.

SECTION 31. A NEW SECTION OF KRS 610.250 TO 610.280 IS CREATED TO READ AS FOLLOWS:

The peace officer may divert the child from the formal court process and take the child to a court-approved center offering voluntary services to children and release the child without formal charges being filed, if the offense the child has allegedly committed under the provisions of KRS 610.010(1)(a):

(1) Is not a felony offense;

(2) The peace officer has received the permission of the parent or other responsible adult; and

(3) The peace officer has followed guidelines which the court has established for such release.

SECTION 32. A NEW SECTION OF KRS 610.250 TO 610.280 IS CREATED TO READ AS FOLLOWS:

(1) No child who is accused of committing a status offense shall be detained in any facility other than a secure juvenile detention facility or juvenile holding facility.

(2) No child who is accused of committing a public offense or of being in contempt of court shall at any time be detained in any facility other than a secure juvenile detention facility or juvenile holding facility. The court may order the child to be detained in a secure juvenile detention facility or a juvenile holding facility, pending an appearnace before the court pursuant to KRS 610.280, based on an ex parte finding that the child's conduct or condition endangers his safety or welfare or that of the community. The finding shall be made following presentation to the court by the court designated worker of information concerning the nature of the offense, the child's background and history and other information relevant to the child's conduct or condition. Presentation and approval may be made by telephone. If the child is not released at or before the twelve (12) hours of retention end, the court designated worker shall notify the parent, person exercising custodial control or supervision, a relative, guardian or other responsible adult.

Section 33. KRS 610.280 is amended to read as follows:

(1) *(a) If* [~~When~~] a child is detained for the alleged commission of *a public* [~~an~~] offense [~~as provided in KRS 610.010(1)(a)~~] and not released, a hearing shall be held as soon as practical, but not to exceed seventy-two (72) hours, exclusive of weekends[~~,~~] and holidays, of the commencement of detention.

(b) If a child is detained for the alleged commission of a status offense and not released, a hearing shall be held as soon as practical, but not to exceed forty-eight (48) hours, exclusive of weekends and holidays, of the commencement of detention.

(2) The hearing shall address the following issues:

(a) If there is probable cause to believe that an offense has been committed and that the accused child committed that offense. Probable cause may be established in the same manner as *in* a preliminary hearing in cases involving adults accused of felonies. The child shall be afforded the right to confront and cross-examine witnesses. The Commonwealth shall bear the burden of proof [~~and it shall be by a preponderance of the evidence.~~] and if it should fail to establish [~~such~~] probable cause, the child shall be released and the complaint *or petition* dismissed unless the court determines further detention is necessary to assure [~~the safety of the child, protection of the community, or~~] the appearance of the child in court *on another pending case*; and

(b) In determining detention [~~for offenses provided in KRS 610.010(1)(a)~~], the court shall consider the seriousness of the alleged offense; the possibility that the child would commit an offense dangerous to himself or the community pending disposition of the *alleged* [~~original~~] offense; the child's prior record, if any; and whether there are *other* charges pending against the child [~~in another jurisdiction~~].

(3) If, after completion of the detention hearing, the court is of the opinion that detention is necessary, the order shall state on the record the specific reasons for detention [~~and the nature of the detention~~].

Section 34. KRS 610.290 is amended to read as follows:

(1) Unless a hearing is held and the necessity for detention properly established, the child shall be released to the custody of his parents, *person exercising custodial control or supervision or other* [~~or other~~] responsible adult pending further disposition of the case. A child shall have a right to counsel at his detention hearing determining his right to freedom pending the disposition of his case, and his parents, [~~or other responsible~~] person *exercising custodial control or supervision or other responsible adult* shall have a right to attend the hearing if such attendance will not *unnecessarily* [~~necessarily~~] delay the hearing. Any person aggrieved by a proceeding under this subsection may proceed by habeas corpus to the circuit court.

(2) Whether the child is released before or after a hearing, or is detained as a result of such hearing, the child and his parents, [~~guardian, or other~~] person exercising custodial control or supervision *or other responsible adult* shall be given written notice of the time and place of the *adjudicatory* [~~adjudicative~~] hearing

concerning the child and an account of the specific charges against the child, including the specific statute alleged to have been violated. Such notice shall be given at least seventy-two (72) hours prior to the initial hearing on the case.

Section 35. KRS 610.300 is amended to read as follows:

(1) Physical evidence shall be obtained and utilized in the investigation of public offenses involving children in the same manner as it is obtained and utilized in the investigation of public offenses involving adults.

(2) All records and physical evidence so obtained shall be surrendered to the court upon motion for good cause shown or upon elimination of the child as a suspect in the case.

(3) The court shall upon receipt of physical evidence, return any evidence, which is not contraband *and* [~~or~~] is not needed for further prosecution, to its lawful owner.

Section 36. KRS 610.310 is amended to read as follows:

(1) When the health or physical condition of any child before the juvenile court requires it, the court may order the child to be placed in a public or private hospital or institution for treatment or care. In order to ascertain the physical condition of a child, the court may cause the child to be examined by a health officer or children's clinic or any reputable physician who will conduct the examination.

(2) The court may order or consent to necessary medical treatment, including surgical procedures, except for the purpose of abortion, electroshock therapy or psychosurgery as provided in KRS Chapter 645, or sterilization, after a hearing conducted to determine the necessity of such treatment or procedure. Reasonable notice, taking into account any emergency circumstances, shall be provided to the parents, guardian or *person exercising custodial control or supervision* [~~custodian~~] of the child to enable them to attend the hearing.

Section 37. KRS 610.320 is amended to read as follows:

(1) A special record book shall be kept by the court for all cases, to be known as the "juvenile record," and the docket or calendar of such cases shall be called the "juvenile docket."

(2) No probation officer, nor employe of a probation officer, shall, without the consent of the district judge sitting in juvenile session divulge or communicate to any persons other than the court, an officer of the court interested in the case, a member of the advisory board of the court, or a representative of the cabinet, any information obtained pursuant to the discharge of his duties, nor shall any record of the action of the probation officer be made public except by leave of the district judge; provided, that nothing in this subsection shall prohibit the probation officer from divulging or communicating such information to the court, to his colleagues or superiors in his own department, *or* to another probation officer having a direct interest in the record or social history of the child[~~; or to a representative of any public or private social agency, institution, hospital or church having a direct interest in the record or social history of the child~~].

(3) All *law enforcement* [~~police~~] records regarding children who have not reached their eighteenth [~~(18th)~~] birthday shall not be opened to scrutiny by the public. However, such *law enforcement* [~~police~~] records shall be made available to the child, family, guardian or legal representative of the child involved. Such records shall also be made available to the court, probation officers, *or* representatives of the cabinet[~~; or to a representative of any public or private social agency, institution, hospital or church having a direct interest in the record or social history of the child~~].

(4) This section shall not relieve the probation officer or *peace* [~~police~~] officer from divulging such facts as a witness in a trial or hearing involving any cases falling under KRS Chapters 600 to 645 or the production of such records for use in such trial or proceedings.

Section 38. KRS 610.330 is amended to read as follows:

(1) Any child who has been adjudicated as coming within the purview of KRS Chapters 630, 635, or 645, but not KRS *Chapters* [~~Chapter~~] 620 or 640, may petition the court for the expungement of his juvenile court record. He shall be informed of such right at the time of adjudication. The court on its own motion,

or on the motion of a probation officer of the court or of a representative of the cabinet or any other interested person, may initiate expungement proceedings concerning the record of any child who has been under the jurisdiction of the court. Such petition shall be filed or such court order entered no sooner than two (2) years after the date of termination of the court's jurisdiction over the person, or two (2) years after his unconditional release from commitment to the cabinet for human resources or a public or private agency, except that the two (2) year period may be waived if the court finds that such extraordinary circumstances exist with regard to the petitioner as to make the waiver advisable.

(2) Upon the filing of a petition or entering of a court order, the court shall set a date for a hearing and shall notify the county attorney and anyone else whom the court or the child, his parents, relatives, guardian, or custodian has reason to believe may have relevant information related to the expungement of the record.

(3) The court shall order sealed all records in the petitioner's case in the custody of the court and any such records in the custody of any other agency or official, including *law enforcement* [~~police~~] records, if at the hearing the court finds that:

(a) Since the termination of the court's jurisdiction or his unconditional release from commitment to the cabinet or a public or private agency, the person whose record is in question has not been convicted of a felony, and has not been adjudicated under KRS 610.010(1)(a); *and*

(b) No proceeding concerning a felony and no petition under KRS 610.010(1)(a) is pending or being instituted against him.

(4) Upon the entry of an order to seal the records, the proceedings in the case shall be deemed never to have occurred, and all index references shall be deleted and the person and court may properly reply that no record exists with respect to such person upon any inquiry in the matter.

(5) Copies of the order shall be sent to each agency or official named therein.

(6) Inspection of the records included in the order may thereafter be permitted by the court only upon petition by the person who is the subject of such records, and only to those persons named in such petition.

Section 39. KRS 610.350 is amended to read as follows:

(1) In proceedings in the juvenile session of the district court, no court fees shall be charged against, and no witness fees shall be allowed to, any party to a petition. No public officer shall be entitled to receive any fee from the service of process or for attendance in court in any such proceedings. All other persons acting under orders of the court may be paid[~~,~~] for service of process and attendance as witnesses. The payments for fees provided by law for like services in civil cases in the circuit court are to be made out of the county treasury. The county or state may compensate any officer or person in the amount prescribed by law for the *transportation of a child to a place where he will be detained or placed* [~~detention~~] or *the* return of any *child* [~~person~~] to the jurisdiction of the court, and funds for this purpose may be appropriated and paid by the fiscal court.

(2) For the purpose of paying salaries and expenses necessary to carry out the purposes of KRS Chapters 600 to 645, the fiscal court of any county, or urban county council of an urban county government, may levy taxes and make appropriations[~~,~~] within constitutional limitations. The legislative body of any city also is authorized to appropriate funds to assist the county in carrying out the purposes of KRS Chapters 600 to 645, including providing facilities for custody and care of children coming within the purview of KRS Chapters 600 to 645.

Section 40. KRS 610.990 is amended to read as follows:

(1) Any person who *intentionally* violates any of the provisions of this chapter, other than *Section 32 of this Act* [~~KRS 610.230~~], shall be guilty of a Class B misdemeanor.

(2) Any person who *intentionally* violates *Section 32 of this Act* [~~KRS 610.230~~] shall be guilty of a Class A misdemeanor.

Section 41. KRS 620.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, as used in this chapter, unless the context requires otherwise:

(1) "Case permanency plan" means a document identifying decisions made by the cabinet, for both the *biological* [~~natural~~] family and the child, concerning action which needs to be taken to assure that the child in foster care expeditiously obtains a permanent home;

(2) "Case progress report" means a written record of goals that have been achieved in the case of a child;

(3) "Case record" means a cabinet file of specific documents and a running record of activities pertaining to the child;

(4) "Foster care" means the provision of temporary twenty-four (24) hour care for a child for a planned period of time when the child is:

(a) Removed from his parents or person exercising custodial control or supervision and subsequently committed to the cabinet; and

(b) Placed in a foster [~~family~~] home or private child-caring *facility* or child-placing *agency* [~~facility~~] but remains under the supervision of the cabinet;

(5) "Local citizen review board" means a board which provides periodic permanency reviews of children committed to the cabinet *under this chapter* [~~and in foster care~~];

(6) "Permanence" means a relationship between a child and an adult which *is intended to* [~~will~~] last a lifetime, providing commitment and continuity in the child's relationships and [~~having~~] a sense of belonging;

(7) "Preventive services" means those services which are designed to help maintain and strengthen the family unit by preventing or eliminating the need for removal of children from the family;

(8) "Reunification services" means remedial and preventive services which are designed to strengthen the family unit, to secure reunification of the family and child where appropriate, as quickly as practicable, and to prevent the future removal of the child from the family; and

(9) "State citizen review board" means a board created by KRS 620.310.

SECTION 42. A NEW SECTION OF KRS 620.020 TO 620.030 IS CREATED TO READ AS FOLLOWS:

A finding of jurisdiction under this chapter shall not necessarily preclude a finding of jurisdiction under KRS Chapters 625, 630, or 635; however, jurisdiction under this chapter shall take precedence. No child shall be released from the jurisdiction of the court under this chapter if concurrent complaints under KRS Chapters 630 or 635 are pending.

Section 43. KRS 620.030 is amended to read as follows:

(1) Any person who knows or has reasonable cause to believe that a child is dependent, neglected or abused shall immediately cause an oral or written report to be made to a local law enforcement agency[~~,~~] or the Kentucky state police;[~~,~~] the cabinet or its designated representative;[~~,~~] the commonwealth's attorney or the county attorney;[,] by telephone or otherwise. *If the cabinet receives a report of abuse or neglect allegedly committed by a person other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall refer the matter to the commonwealth's attorney or the county attorney and the local law enforcement agency or the Kentucky state police. Nothing in this section shall relieve individuals of their obligations to report.*

(2) Any person, including but not limited to a physician, osteopathic physician, nurse, teacher, school personnel, social worker, coroner, medical examiner, child-caring personnel, resident, intern, chiropractor,

dentist, optometrist, emergency medical technician, paramedic, health professional, mental health professional, peace officer or any organization or agency for any of the above, who knows or has reasonable cause to believe that a child is dependent, neglected or abused, *regardless of whether the person believed to have caused the dependency, neglect or abuse is a parent, guardian, person exercising custodial control or supervision or another person,* or who has attended such child as a part of his professional duties shall, if requested, in addition to the report required in subsection (1) of this section, file with the local law enforcement agency or the Kentucky state police or the *commonwealth's* [~~commonwealth~~] or county attorney, the cabinet or its designated representative within forty-eight (48) hours of the original report a written report containing:

(a) The names and addresses of the child and his parents or other persons exercising custodial control or supervision;

(b) The child's age;

(c) The nature and extent of the child's alleged dependency, neglect or abuse (including any previous charges of dependency, neglect or abuse) to this child or his siblings;

(d) The name and address of the person allegedly responsible for the abuse or neglect; and

(e) Any other information that the person making the report believes may be helpful in the furtherance of the purpose of this section.

(3) The cabinet upon request shall receive from any agency of the state or any other agency, institution or facility providing services to the child or his family, such cooperation, assistance and information as will enable the cabinet to fulfill its responsibilities under KRS 620.030, 620.040, and 620.050.

Section 14. KRS 620.040 is amended to read as follows:

(1) Upon receipt of a report *alleging abuse or neglect by a parent, guardian or person exercising custodial control or supervision,* pursuant to KRS 620.030(1) or (2), the *recipient* [~~county attorney, the commonwealth's attorney, the local law enforcement agency or Kentucky state police, if they are the recipients~~] of the report[~~,~~] shall forthwith notify the cabinet or its designated representative, *the local law enforcement agency or Kentucky state police* and the *commonwealth's* [~~commonwealth~~] or county attorney of the receipt of the report. *The cabinet* [~~and its contents and, if the report alleges abuse, they~~] shall investigate the matter *immediately* and within forty-eight (48) hours, *exclusive of weekends and holidays,* make a written report to the *commonwealth's* [~~cabinet or its designated representative and the commonwealth~~] or county attorney *and the local enforcement agency or Kentucky sate police* concerning the action which has been taken on the matter. *If the report alleges abuse or neglect by someone other than a parent, guardian or person exercising custodial control or supervision, the cabinet shall forthwith notify the commonwealth's or county attorney and the local law enforcement agency or Kentucky state police.*

(2) *Upon receipt of a report alleging dependency pursuant to KRS 620.030(1) and (2), the recipient shall forthwith notify the cabinet or its designated representative.* [~~Upon the receipt of a report of alleged abuse pursuant to KRS 620.030(1) or (2) the cabinet or its designated representative, if it is the recipient of the report, shall forthwith notify the local law enforcement agency or Kentucky state police and the commonwealth or county attorney of the receipt of the report and its contents and shall investigate the matter and within forty-eight (48) hours make a written report to the local law enforcement agency or the Kentucky state police and the county or commonwealth's attorney concerning the action which has been taken on the matter.~~] The cabinet [~~also~~] shall investigate reports of alleged dependency *not later than forty-eight (48) hours after receipt of the report* [~~and neglect~~] but need not notify the local law enforcement agency or Kentucky state police or county attorney or commonwealth's attorney of such reports.

(3) (a) If, after receiving the report, the law enforcement officer, the cabinet or its designated representative cannot gain admission to the location of the child, a search warrant shall be issued by the judge to the appropriate law enforcement official upon probable cause that the child is dependent, neglected or abused. If, pursuant to a search under a warrant a child is discovered and appears to be in imminent danger, the child may be removed by the law enforcement officer.[~~;~~]

(b) In the event a child who is in a hospital or under the immediate care of a physician appears to be in imminent danger if he is returned to the persons having custody of him, the physician or hospital administrator may hold a child without court order provided that a request is made to the court for an emergency custody order at the earliest practicable time, not to exceed seventy-two (72) hours.[;]

(c) Any appropriate law enforcement officer may take a child into protective custody and may hold that child in protective custody without the consent of the parent or other person exercising custodial control or supervision, if *there exist reasonable grounds for the officer to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child* [~~the officer has reasonable cause to believe that there exists an imminent danger~~]. The officer *or the person to whom the officer entrusts the child* shall, within twelve (12) hours of taking the child into such protective custody, request the court to issue an emergency custody order.[;]

(d) When a law enforcement officer, hospital administrator, or physician takes a child into custody without the consent of the parent or other person exercising custodial control or supervision, he shall provide written notice to the parent or other person stating the reasons for removal of the child. Failure of the parent or other person to receive notice shall not, by itself, be cause for civil or criminal liability.

Section 45. KRS 620.050 is amended to read as follows:

(1) Anyone acting upon reasonable cause in the making of a report or acting under KRS 620.030 to 620.050 in good faith shall have immunity from any liability, civil or criminal, that might otherwise be incurred or imposed. Any such participant shall have the same immunity with respect to participation in any judicial proceeding resulting from such report or action.

(2) Neither the husband-wife nor any professional-client/patient privilege, except the attorney-client and clergy-penitent privilege, shall be a ground for refusing to report under this section or for excluding evidence regarding a dependent, neglected or abused child or the cause thereof, in any judicial proceedings resulting from a report pursuant to this section. This subsection shall also apply in any criminal proceeding in district or circuit court regarding a dependent, neglected or abused child.

(3) Upon receipt of a report of an abused, [~~or~~] neglected *or dependent* child pursuant to this *chapter* [~~section~~], the cabinet as the designated agency or its delegated representative shall initiate a prompt investigation, take necessary action and shall offer protective services toward safeguarding the welfare of the child. The cabinet shall work toward preventing further dependency, neglect or abuse of the child or any other child under the same care, and preserve and strengthen family life, where possible, by enhancing parental capacity for adequate child care.

(4) All information obtained by the cabinet or its delegated representative, as a result of an investigation made pursuant to this *chapter* [~~section~~], shall not be divulged to anyone except:

(a) Persons suspected of causing dependency, neglect or abuse, provided that in such cases names of informants shall be withheld unless ordered by the court;

(b) The custodial parent or legal guardian of the child alleged to be dependent, neglected or abused;

(c) Persons within the cabinet with a legitimate interest or responsibility related to the case;

(d) Other medical, psychological, educational, or social service agencies, corrections personnel or law enforcement agencies, including the county attorney's office, that have a legitimate interest in the case;

(e) A non-custodial parent when the dependency, neglect or abuse is substantiated; or

(f) Those persons so authorized by court order.

(5) As a result of any report of suspected child abuse or neglect, photographs and X-rays or other appropriate medical diagnostic procedures may be taken or caused to be taken, without the consent of the parent or other person exercising custodial control or supervision of the child, as a part of the medical evaluation or investigation of such reports. Such photographs and X-rays or results of other medical diagnostic procedures may be introduced into evidence in any subsequent judicial proceedings. The person performing the diagnostic procedures or taking such photographs or X-rays shall be immune from criminal or civil liability for having

performed the act. Nothing herein shall limit liability for negligence.

Section 46. KRS 620.060 is amended to read as follows:

(1) The court for the county where the child is present may issue an ex parte emergency custody order when it appears to the court that there are reasonable grounds to believe, as supported by affidavit or by recorded sworn testimony, that the child *is in danger of imminent death or serious physical injury or is being sexually abused and that the parents or other person exercising custodial control or supervision are unable or unwilling to protect the child* [~~will be dependent, neglected or abused if returned, to, or left in the custody of, his parent or other person exercising custodial control or supervision~~]. Custody may be placed with a relative taking into account the wishes of the custodial parent or any other appropriate person or agency including the cabinet

(2) [~~A finding of jurisdiction under this chapter shall not necessarily preclude a finding of jurisdiction under KRS Chapter 625, 630, or 635; however, jurisdiction under this chapter shall take precedence. No child shall be released from the jurisdiction of the court under this chapter if concurrent complaints under KRS Chapter 630 or 635 are pending.~~

~~(3)~~] An emergency custody order shall be effective no longer than seventy-two (72) hours, exclusive of weekends and holidays, unless there is a temporary removal hearing with oral or other notice to the county attorney and the parent or other person exercising custodial control or supervision of the child, to determine if the child should be held for a longer period. The seventy-two (72) hour period also may be extended or delayed upon the waiver or request of the child's parent or other person exercising custodial control or supervision.

(3)[~~(4)~~] Any person authorized to serve process shall serve the parent or other person exercising custodial control or supervision with a copy of the emergency custody order. If such person cannot be found, the sheriff shall make a good faith effort to notify the nearest known relative, neighbor, or other person familiar with the child.

(4)[~~(5)~~] Within *seventy-two (72)* [~~twenty-four (24)~~] hours of the [~~issuance of an emergency custody order or the~~] taking of a child into custody without the consent of his parent or other person exercising custodial control or supervision, a *petition* [~~complaint~~] shall be filed pursuant to this chapter.

(5)[~~(6)~~] Nothing herein shall preclude the issuance of arrest warrants pursuant to the Rules of Criminal Procedure.

Section 47. KRS 620.070 is amended to read as follows:

(1) A dependency, neglect or abuse action may be commenced by the filing of a *petition* [~~complaint~~] by any interested person in the juvenile session of the district court.

(2) After a *petition* [~~complaint~~] has been filed, the clerk of the court shall issue and the sheriff or other authorized agent shall serve a copy of the *petition* [~~complaint~~] and a summons to the parent or other person exercising custodial control or supervision, unless their identity or location is unknown, in which case the petition and summons shall be *served on* [~~issued to~~] the nearest known adult relative.

(3) The summons shall include an explanation of the importance of the *petition* [~~complaint~~] and an explanation of the rights of the parent or other person exercising custodial control in any subsequent proceedings. The summons shall emphasize the importance of immediately contacting the court about legal representation and to be advised of the date, time and place when the parent or other person exercising custodial control or supervision is to appear before the court.

Section 48. KRS 620.080 is amended to read as follows:

(1) Unless waived by the child and his parent or other person exercising custodial control or supervision, a temporary removal hearing shall be held:

(a) Within seventy-two (72) hours, excluding weekends and holidays, of the time when an emergency custody order is issued or when a child is taken into custody without the consent of his parent or other person exercising custodial control or supervision; and

(b) In cases commenced by the filing of a *petition* [~~complaint~~], within ten (10) days of the date of filing.

(2) At a temporary removal hearing, the court shall determine whether there are reasonable grounds to believe that the child would be dependent, neglected or abused if returned to or left in the custody of his parent or other person exercising custodial control or supervision even though it is not proved conclusively who has perpetrated the dependency, neglect or abuse. For good cause, the court may allow hearsay evidence. The Commonwealth shall bear the burden of proof by a preponderance of the evidence and if the Commonwealth should fail to establish same, the child shall be released to or retained in the custody of his parent or other person exercising custodial control or supervision.

Section 49. KRS 620.090 is amended to read as follows:

(1) If, after completion of the temporary removal hearing, the court finds there are reasonable grounds to believe the child is dependent, neglected or abused, the court shall issue an order for temporary removal and shall grant temporary custody to the cabinet or other appropriate person or agency. *Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision if known.* The order shall state the specific reasons for removal and show that alternative less restrictive placements and services have been considered. The court may recommend a placement for the child.

(2) In placing a child *under an order of* [~~following a~~] temporary *custody* [~~removal~~], the cabinet or its designee shall use the least restrictive appropriate placement available. Preference shall be given to available and qualified relatives of the child considering the wishes of the parent or other person exercising custodial control or supervision if known. The child may also be placed in a facility or program operated or approved by the cabinet, including a foster home,[~~;~~] or any other appropriate available placement.

(3) If the court finds there are not reasonable grounds to believe the child is dependent, neglected or abused, or if no action is taken within seventy-two (72) hours, the emergency custody order shall be dissolved automatically and the cabinet or its designee shall return the child to the parent or other person exercising custodial control or supervision. A request for a continuance of the hearing by the parent or other person exercising custodial control or supervision shall constitute action precluding automatic dissolution of the emergency custody order.

(4) When the court issues a temporary order for the custody of a child, the court may *order that, within two (2) weeks, arrangements be made for the* [~~cause a~~] child to receive a thorough medical, visual, and dental examination[~~, within two (2) weeks~~] by a professional authorized by the Kentucky Revised Statutes to conduct such examinations. The costs of the examination shall be paid by the cabinet.

(5) *The child shall remain in temporary custody with the cabinet for a period of time not to exceed forty-five (45) days from the date of the removal from his home. The court shall conduct the adjudicatory hearing and shall make a final disposition within forty-five (45) days of the removal of the child. The court may extend such time after making written findings establishing the need for the extension and after finding that the extension is in the child's best interest* [~~No temporary custody order shall be effective for more than twenty-one (21) days unless an adjudicatory hearing on the merits of the case is begun within the twenty-one (21) day period. The twenty-one (21) day period may be waived by the parent or other person exercising custodial control or supervision of the child or their attorney or the attorney for the child~~].

Section 50. KRS 620.100 is amended to read as follows:

(1) If the court determines, as a result of a temporary removal hearing, that further proceedings are required, the court shall advise the child and his parent or other person exercising custodial control or supervision of their right to appointment of separate counsel:

(a) The court shall appoint [~~local~~] private counsel for the child to be paid for by the cabinet for finance and administration. *The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet for human resources, of the order appointing counsel.* The fee to be fixed by the court, shall not exceed five hundred dollars ($500) provided, however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250);

(b) The court shall appoint separate counsel for the parent who exercises custodial control or supervision[~~;~~] if the parent is unable to afford counsel pursuant to KRS Chapter 31. *The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet for human resources, of the order appointing counsel.* The parent's counsel shall be provided by, or paid for, by the cabinet for finance and administration. The fee to be fixed by the court, shall not exceed five hundred dollars ($500) provided, however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250); and

(c) The court may, in the interest of justice, appoint separate counsel for a non-parent who exercises custodial control or supervision of the child, if such person is unable to afford counsel, pursuant to KRS Chapter 31. *The clerk of the court shall arrange for service on all parties, including the local representative of the cabinet for human resources, of the order appointing counsel.* Counsel for such person shall be provided by, or paid for, by the finance and administration cabinet. The fee to be fixed by the court, shall not exceed five hundred dollars ($500) provided, however, if the action has final disposition in the district court, the fee shall not exceed two hundred fifty dollars ($250).

(2) If the court determines that further proceedings are required, the court also shall advise the child and his parent or other person exercising custodial control or supervision that they have a right to not incriminate themselves, and a right to a full adjudicatory hearing at which they may confront and cross-examine all adverse witnesses, present evidence on their own behalf and to an appeal. [~~The full adjudicatory hearing shall be held within twenty-one (21) days of the temporary custody order unless the parent or other person exercising custodial control or supervision specifically waives the twenty-one (21) day limit.~~]

(3) The adjudication shall determine the truth or falsity of the allegations in the complaint. The burden of proof shall be upon the complainant, and a determination of dependency, neglect and abuse shall be made by a preponderance of the evidence. The Kentucky Rules of Civil Procedure shall apply.

(4) The disposition shall determine the action to be taken by the court on behalf of the child and his parent or other person exercising custodial control or supervision.

Section 51. KRS 620.140 is amended to read as follows:

(1) In determining the disposition of all cases brought on behalf of dependent, neglected or abused children, the juvenile session of the district court, in the best interest of the child, shall have, but shall not be limited to, the following dispositional alternatives:

(a)[~~(1)~~] Informal adjustment of the case;

(b)[~~(2)~~] Protective orders, such as the following:

1.[~~(a)~~] Requiring the parent or any other person to abstain from any conduct abusing, neglecting or making the child dependent;

2.[~~(b)~~] *Placing* [~~That~~] the child [~~be placed~~] in his own home under supervision of the cabinet or its designee with services as determined to be appropriate by the cabinet; and

3.[~~(c)~~] Orders authorized by KRS 403.740 and 403.750.

(c)[~~(3)~~] Removal of the child to the custody of an adult relative, other person, or *child-caring* [~~child caring or placing~~] facility *or child-placing agency*, taking into consideration the wishes of the parent or other person exercising custodial control or supervision. Before any child is committed to the cabinet or placed out of his home under the supervision of the cabinet, the court shall determine that reasonable efforts have been made by the court or the cabinet to prevent or eliminate the need for removal and that continuation in the home would be contrary to the welfare of the child.

(d)[~~(4)~~] Commitment of the child to the custody of the cabinet for placement for an indeterminate period of time not to exceed his attainment of the age eighteen (18). The court, in its discretion, upon motion of the child *and with the concurrence of the cabinet*, may authorize an extension of commitment up to age twenty-one (21) for the purpose of the child's participating in state or federal educational programs *or to permit the cabinet to assist the child in establishing independent living arrangements*.

(2) An order of temporary custody to the cabinet shall not be considered as a permissible dispositional alternative.

SECTION 52. A NEW SECTION OF KRS 620.150 TO 620.160 IS CREATED TO READ AS FOLLOWS:

Any party aggrieved by a proceeding under KRS 610.010(1)(e), may appeal from the juvenile court to the circuit court as a matter of right in the manner provided in the Kentucky Rules of Civil Procedure. The circuit court may order that the child may be removed to a suitable place, pending the appeal, if it appears by affidavit or sworn testimony that the child would be in imminent danger if left with or returned to his parents, guardian, or other person party to the appeal.

Section 53. KRS 620.160 is amended to read as follows:

Upon attaining majority [~~or becoming emancipated~~], a *person who was the subject of an action under this chapter* [~~child~~] may make a motion for the sealing of records relating to a *petition* [~~complaint~~] filed under this chapter. In its discretion, the court may order the record unsealed for good cause shown.

Section 54. KRS 620.170 is amended to read as follows:

(1) The cabinet may accept custody of a child who is voluntarily committed to the cabinet by the child's parent, *guardian or other person having legal custody.* However, the cabinet shall refuse to accept any child on a voluntary commitment unless adequate facilities, funds, and resources are available to care for the child, and the secretary finds that commitment would be in the best interest of the child.

(2) As a condition of any voluntary commitment, the cabinet may enter into an agreement with the parent, *guardian or other person having legal custody* [~~or person exercising custodial control or supervision~~] of the child consenting to the commitment to pay an agreed sum for the care and treatment of the child. The sum shall be determined by the needs of the child and by the ability of the parent, *guardian or other person having legal custody* [~~or other person exercising custodial control or supervision~~] to pay.

(3) In the case of voluntary commitment, the cabinet may expend funds necessary to give the child all services available to any committed child including, but not limited to, diagnosis, treatment, foster care, day care, [~~institutional~~] care and treatment *in a facility,* and necessary medical, psychological and psychiatric care.

(4) Any person who has consented to a child's voluntary commitment may request the release of the child in writing addressed to the cabinet. The cabinet shall within ten (10) days release the child, or, if in the opinion of the cabinet it would be in the best interest of the child to remain in the custody of the cabinet, a *petition* [~~complaint~~] shall be filed in the court of the county of residence of the child as provided in KRS 620.030 to 620.050.

(5) If, following a hearing on the matter, the court determines that the child can no longer benefit from those services offered by the cabinet, or that the parent, *guardian or other person having legal custody of the child* [~~or person exercising custodial control or supervision~~] is capable of providing proper care, the child may be returned at once to the care of his parent, *guardian or other person having legal custody of the child* [~~or other person exercising custodial control or supervision,~~] or to *another* [~~a third~~] person mutually agreed upon.

Section 55. KRS 620.180 is amended to read as follows:

(1) The cabinet may promulgate administrative regulations to implement the provisions of this chapter. The cabinet may also promulgate administrative regulations pursuant to the requirements of Public Law 96-272 as to the maximum number of children who at any time during a fiscal year, will remain in foster care after having been in such care for a period in excess of twenty-four (24) months, together with the steps to be taken to achieve such goal.

(2) The cabinet shall promulgate administrative regulations to provide the following:

(a) The method used to periodically review the status of children placed in foster family homes which shall include, but not be limited to, the following:

1. Within *five (5) days, exclusive of weekends and holidays,* [~~one (1) week~~] of the temporary removal hearing provided for in this chapter, a case conference shall be held on all children placed with the cabinet for the purpose of establishing a specific treatment plan which may include preventive and reunification services for the child and his parent or other person exercising custodial control or supervision. Additional case conferences and reviews shall be held as appropriate, but shall be held at least every six (6) months. The parent or other person exercising custodial control or supervision and his counsel, if any, shall have the right to be present at and participate in such conferences. *The child; the child's attorney, if any; the parent or other person exercising custodial control or supervision and his attorney of record, if any; and the county attorney shall be notified of, and may be present at and participate in such conferences* [~~Notice of such conferences shall be given to the parent or other person exercising custodial control or supervision and his attorney of record, if any. The county attorney may attend but shall not be required to participate in conference and reviews under this section~~];

2. On-going case work and supportive services shall be provided as indicated to best meet the needs of the child as established by the review and planning process; and

3. There may be procedures for providing for appropriate visitation between the parents and the child based on the needs of the child; *and*

(b) The procedures for reporting to a committing court the status and plans for children committed to the cabinet as dependent, neglected or abused and placed in foster family homes.

Section 56. KRS 620.190 is amended to read as follows:

(1) There shall be established within each judicial district [~~court region~~] a foster care citizen review board to be appointed by the chief [~~regional~~] district judge. The chief [~~regional~~] district judge may authorize the creation of additional local citizen review boards as needed.

(2) [~~Where established, members of local citizen review boards shall be appointed by the chief regional district judges of the districts involved.~~

~~(3) Where established,~~] Each local citizen review board shall consist of not less than three (3) nor more than five (5) members and shall be appointed according to the following guidelines:

(a) At least two (2) members of each local citizen review board shall be chosen from among the following professions: law, medicine, psychology, social work, and education, and shall have a demonstrated interest in foster care or child welfare. At least one (1) member shall have demonstrated interest in foster care or child welfare;

(b) All members of each local citizen review board shall, as far as practicable, be representative of the socioeconomic, racial and ethnic composition of the area served;

(c) Employes of the cabinet shall be prohibited from serving on the local citizen review board; and

(d) Of the initial appointees to each local citizen review board, the chief [~~regional~~] district judges shall designate one (1) member to serve a term of one (1) year, not less than one (1) nor more than two (2) members to serve a term of two (2) years, and not less than one (1) nor more than two (2) members to serve a term of three (3) years. All subsequent board members shall serve a term of three (3) years, except that if a vacancy occurs, a successor shall be appointed to serve the unexpired term. The term of each member shall expire on August first of the appropriate year. Members may be reappointed and shall continue to serve until a successor is appointed.

(3)[~~(4)~~] Local citizen review board members may be removed for nonparticipation or other cause.

(4)[~~(5) Where established,~~] Each local citizen review board shall annually elect a chairman and vice-chairman to serve in the absence of the chairman.

(5)[~~(6)~~ ~~Where established,~~] Each local citizen review board shall meet, at a place designated by the chief [~~regional~~] district judge, as often as is deemed necessary to carry out the duties of the board. The local citizen review board shall meet no less than four (4) times annually.

Section 57. KRS 620.210 is amended to read as follows:

(1) Training shall be established and approved by the state citizen review board or its staff as provided by KRS 620.320.

(2) During the training session, each local citizen review board member shall promise by oath given by the chief [~~regional~~] district judge or a member of the court of justice to keep confidential the information reviewed by the board and its actions and recommendations in individual cases pursuant to the authority mandated to other officers of the court in KRS Chapter 522. Members of the local citizen review boards shall be subject to the same penalties as officers of the court pursuant to KRS Chapter 522.

Section 58. KRS 620.220 is amended to read as follows:

(1) The clerk of the court shall forward to the *chairman of the* local citizen review board, with jurisdiction for the county from which the child was committed, a copy of each order committing the child to the cabinet within fourteen (14) days of the commitment date.

(2) When a child is voluntarily committed to the cabinet, the cabinet shall forward a copy of the placement agreement to the *chairman of the* local citizen review board with jurisdiction for the county from which the child was committed within fourteen (14) days of the time the child is placed.

Section 59. KRS 620.230 is amended to read as follows:

(1) Within thirty (30) days after the commitment date of the child, the cabinet shall file a case permanency plan for the child with the court and the *chairman of the* local citizen review board [~~where established~~] with jurisdiction for the county from which the child was committed.

(2) The case permanency plan shall include, but need not be limited to:

(a) A concise statement of the reasons why the child is in foster care;

(b) A statement of the actions which have been taken with regard to the child to the date of the plan;

(c) A statement of the proposed actions which may be taken or are contemplated with regard to the child during the next six (6) months[~~;~~] and during the entire duration of the time the child is under the commitment to the cabinet;

(d) Contemplated placements for the child;

(e) If the child is placed outside [~~of~~] the home, reasons why the child cannot be protected adequately in the home, the harms the child may suffer if left in the home, factors which may indicate when the child can be returned to the home, and efforts the cabinet or others are making to return the child to the home;

(f) If the child is placed outside [~~of~~] the home, the steps that the cabinet will take to minimize the harm to the child as a result of the action, both at the time of removal and on a *long-term* [~~long term~~] basis;

(g) A description of the type of home, child-caring facility, [~~or~~] child-placing agency or *facility* [~~institution~~] in which the child is to be placed or has been placed and a statement why the placement is appropriate for the child, including but not limited to:

1. Age;

2. Educational needs;

3. Medical needs;

4. Emotional needs; and

5. Relationship with parents;

(h) If the placement is outside the child's original county of residence, documentation that no closer placement is appropriate or available, and the reasons why the placement made was chosen;

(i) A description of the services for the child and his family to be provided or arranged by the cabinet to facilitate the return of the child to his own home or to another permanent placement;

(j) A list of objectives and specific tasks, together with specific time frames for each task, for which the parents have agreed to assume responsibility, including a schedule of regular visits with the child;

(k) A projected schedule of time intervals by which each of the services, objectives, and tasks outlined in the case permanency plan should be accomplished and a schedule of time intervals which have already been accomplished or are in the process of accomplishment;

(l) If the child is to remain at home, a description of the potential harm which could befall the child and measures that are being taken to prevent or minimize such harm; and

(m) If the child is to remain at home, reasons why he cannot be placed in foster care or why such care is not needed.

Section 60. KRS 620.240 is amended to read as follows:

The cabinet shall file for each child a case progress report at least once every six (6) months with the court and the local citizen review board [~~where established~~] with jurisdiction for the county from which the child was committed. The *first* case progress report *after commitment* shall *be mailed to the chairman of the appropriate board and subsequent case program reports shall be provided to the review board within the case file. The case progress report shall* include but is not limited to:

(1) The length of time the child has been committed to the cabinet;

(2) The number, location and date for each placement during his total period of commitment;

(3) A description of the services and assistance provided or arranged by the cabinet to the parents since the last case permanency plan or case progress report, and results achieved;

(4) A description of the efforts and progress of the parents since the last case permanency plan and case progress report, including the number and dates of parental visits and the extent, quality, and frequency of the parents' communication with the child;

(5) The barriers, familial and institutional, [~~if any,~~] to returning the child home or ending the commitment of the child to the cabinet and services that are not currently available in the community;

(6) An evaluation of the child's current placement and services provided to the child;

(7) Recommendations for necessary services required to terminate commitment of the child to the cabinet, to return the child home, or to facilitate another permanent placement;

(8) A timetable for the child's return home or other permanent placement; and

(9) *If* [~~Where~~] return home is not recommended, a specific recommendation for a permanent placement, including termination of parental rights if appropriate. If continued foster care is recommended, an explanation as to why another permanent placement is not appropriate.

Section 61. KRS 620.270 is amended to read as follows:

(1) The local citizen review board shall review each child committed to the cabinet who was committed from the county or counties which the board serves. The review shall occur *at least* once every six (6) months until the child is no longer committed to the cabinet or until an adoption proceeding becomes final.

(2) During each six (6) month review, the local citizen review board shall review:

(a) The past, current, and future status of the child and his placement as shown through the case permanency plan, case record, and case progress reports submitted by the cabinet and such other information as the board may require;

(b) The efforts or adjustment the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time considering the age of the child;

(c) The efforts of the cabinet to locate and provide services to the biological parents of the child;

(d) The efforts of the cabinet and other agencies to facilitate the return of the child to the home or to find an alternative permanent placement if reunion with the parent or previous custodian is not feasible. The cabinet shall report to the board all factors which either favor or mitigate against any decision or alternative with regard to these matters; and

(e) Any problems, solutions, or alternatives which may be capable of exploration, or other matters with regard to the child as the cabinet or the board may feel should be explored with regard to the best interests of the state or of the child.

Section 62. KRS 620.990 is amended to read as follows:

(1) Any person *intentionally* [~~knowingly and willfully~~] violating the provisions of this chapter [~~or any person knowingly and willfully permitting, assisting, or encouraging the violation of the provisions of this chapter~~] shall be guilty of a Class B misdemeanor.

(2) The use of information by public officers and by defense counsel for purposes of investigation and trial of cases or other proceedings under the provisions of KRS Chapters 600 to 645 or in any criminal prosecution or appeal shall not constitute a violation of this chapter.

Section 63. KRS 625.040 is amended to read as follows:

(1) A petition for the voluntary termination of parental rights shall be entitled "In the interest of ...., a child." The petition may be filed by a parent.

(2) [~~No petition may be filed under this chapter prior to five (5) days after the birth of the child.~~

~~(3)~~] The petition for the voluntary termination of parental rights *shall* [~~under this section may~~] be filed in *the* [~~any~~] circuit court *of the* [~~in any~~] county where *the petitioner* [~~a party to the action~~] resides or is found and shall be verified and contain the following:

(a) Name and place of residence of each petitioner;

(b) Name, sex, [~~and~~] date of birth and place of residence of the child;

(c) Name and relationship of each petitioner to the child;

(d) A concise statement of the factual basis for the termination of parental rights;

(e) Name and address of the person or of the cabinet or authorized agency to which parental rights are sought to be transferred; and

(f) A statement that the person, cabinet or authorized agency to whom custody is to be given has facilities available and is willing to receive the custody of the child.

(3) No petition may be filed under this chapter prior to five (5) days after the birth of the child.

[~~(4) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing. The circuit court shall require notice to be served upon the cabinet in any case where a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency.~~

~~(5) All hearings shall be held before the circuit court, privately for the purpose of determining the facts.~~

~~(6) The best interest of the child shall be considered paramount.~~

~~(7) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.~~]

SECTION 64. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) The only party to an action for voluntary termination of parental rights shall be the parent seeking termination, but the court shall appoint a guardian ad litem to represent the best interest of the child.

(2) The guardian ad litem shall be paid a fee to be fixed by the court, not to exceed five hundred dollars ($500), to be paid by the petitioner, except if the cabinet for human resources receives custody of the child, the guardian ad litem shall be paid by the finance and administration cabinet.

SECTION 65. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) Within three (3) days after a petition for the voluntary termination of parental rights is filed, the circuit court shall set a date for a hearing.

(2) The circuit court shall require notice to be served upon the local representative of the cabinet in any case in which a statement from the cabinet of willingness to accept custody of the child has not been filed with the petition, or custody of the child is to be placed with an individual and not the cabinet or a licensed agency unless the cabinet has approved the placement.

(3) Proceedings under this chapter shall be completed as soon as practicable. All hearings shall be held before the circuit court privately for the purpose of determining the facts.

(4) An official stenographic or mechanical record shall be made of the proceedings and retained for a period of five (5) years.

(5) The best interest of the child shall be considered paramount.

(6) At the time of the hearing, the circuit court, after full and complete inquiry, shall determine whether each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter.

SECTION 66. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) If the circuit court determines that parental rights are to be voluntarily terminated in accordance with

the provisions of this chapter, it shall make an order terminating all parental rights and obligations of such parent and releasing the child from all legal obligations to such parent and vesting care and custody of the child in such person, agency or cabinet as the court believes is best qualified to receive custody.

(2) Upon consent by the cabinet for human resources, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency, or child-caring facility licensed by the cabinet or in another person provided all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily.

SECTION 67. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

Following the entry of an order voluntarily terminating parental rights in a child, the child shall retain the right to inherit from his parent under the laws of descent and distribution until the child is adopted.

SECTION 68. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

(1) Any order resulting from the voluntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request. Such order may contain a statement of authority to place the child for adoption.

(2) The files and records of the circuit court, excluding the name or other identifying information of a prospective adoptive parent, during proceedings for voluntary termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet, except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person other than representatives of the cabinet without a written order of the court or as authorized by the provisions of KRS 199.011 et seq.

(3) No person having charge of any voluntary termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, facts necessary in order to secure a court order for a copy of the termination order to be used in an adoption proceeding may be disclosed. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked.

SECTION 69. A NEW SECTION OF KRS CHAPTER 625.040 TO 625.050 IS CREATED TO READ AS FOLLOWS:

Any order for the voluntary termination of parental rights shall be conclusive and binding on all parties.

Section 70. KRS 625.050 is amended to read as follows:

(1) A petition for involuntary termination of parental rights shall be entitled "In the interest of ______________, a child."

(2) The petition *shall* [~~may~~] be filed in the circuit court for any of the following counties:

(a) The county in which either parent resides or may be found;

(b) The county in which juvenile court actions, if any, concerning the child have commenced; or

(c) The county in which the child involved resides or is present.

(3)[~~(2)~~] Proceedings for involuntary termination of parental rights may be *initiated* [~~instituted~~] upon petition by the cabinet, any child-placing agency licensed by the cabinet, any county or *Commonwealth's* [~~commonwealth~~] attorney or parent.

(4)[~~(3)~~] The petition for involuntary termination of parental rights shall be verified and contain the following:

(a) Name and *mailing address* [~~identity~~] of each petitioner;

(b) Name, sex, [~~and~~] date of birth *and place of residence* of the child [~~or children~~];

(c) Name and address of the living parents of the child;

(d) Name, date of death and cause of death, if known, of any deceased parent;

(e) Name and address of the putative father, if known by the petitioner, of the child if not the same person as the legal father;

(f) Name and address of person, *cabinet* or agency having custody of the child;

(g) Name and identity of the person, *cabinet* or authorized agency to whom custody is sought to be transferred;

(h) Statement that the *person, cabinet or* agency to whom custody is to be given has facilities available and is willing to receive the custody of the child;

(i) All pertinent information concerning termination or disclaimers of parenthood or voluntary consent to termination;

(j) Information as to the legal status of the child and the court so adjudicating; and

(k) A concise statement of the factual basis for the termination of parental rights.

(5)[~~(4)~~] No petition may be filed under this section prior to five (5) days after the birth of the child.

Section 71. KRS 625.060 is amended to read as follows:

(1) In addition to the child, the following shall be the parties in an action for *involuntary* termination of parental rights:

(a) The petitioner;

(b) The cabinet, if not the petitioner; and

(c) The biological parents, if known and if their rights have not been previously terminated. *It shall not be necessary to make the putative father a party if he is exempted by Section 72 of this Act.*

(2) Any party who is not the petitioner shall be a *respondent* [~~defendant~~].

SECTION 72. A NEW SECTION OF KRS CHAPTER 625.050 TO 625.060 IS CREATED TO READ AS FOLLOWS:

(1) The putative father of a child shall be made a party and brought before the circuit court in the same manner as any other party to an involuntary termination action if one (1) of the following conditions exist:

(a) He is known and voluntarily identified by the mother by affidavit;

(b) Prior to the entry of a final order in a termination proceeding, he shall have acknowledged the child as his own by affirmatively asserting paternity in the action or to the custodial agency or the party bringing the action within sixty (60) days after the birth of the child;

(c) He has caused his name to be affixed to the birth certificate of the child;

(d) He has commenced a judicial proceeding claiming parental right;

(e) He has contributed financially to the support of the child, either by paying the medical or hospital bills associated with the birth of the child or financially contributed to the child's support; or

(f) He has married the mother of the child or has lived openly or is living openly with the child or the person designated on the birth certificate as the biological mother of the child.

(2) Any person to whom none of the above conditions apply shall be deemed to have no parental rights to the child in question.

Section 73. KRS 625.070 is amended to read as follows:

(1) In any action for *involuntary* termination of parental rights, service upon the parties shall be accomplished by personal service where possible or constructive service where personal service is not possible, pursuant to the Kentucky Rules of Civil Procedure.

(2) No service shall be necessary if a disclaimer of paternity or a petition for voluntary termination of parental rights has been executed by a parent or alleged parent and [~~has been~~] filed *in the record* [~~with the petition for termination of parental rights~~], or an order terminating parental rights has been entered by a circuit court of competent jurisdiction.

(3) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, service upon a child committed to the cabinet shall be made upon the cabinet.

Section 74. KRS 625.080 is amended to read as follows:

In any [~~voluntary or~~] involuntary action for termination of parental rights:

(1) The circuit court shall conduct a private hearing. An official stenographic *or mechanical* record shall be made of the proceedings *and retained for a period of five (5) years*. The court *shall* [~~will~~] make findings of fact and conclusions of law to support its judgment;

(2) Any child to whom an involuntary action directly relates shall be made a party to the action and a guardian ad litem shall be appointed [~~as~~] to represent the best *interests* [~~interest~~] of the child. The person appointed as a guardian ad litem shall be paid a fee not to exceed five hundred dollars ($500), to be paid by the finance and administration cabinet. Upon motion of any party, the child may be permitted to be present during the proceedings and to testify if the court finds such to be in the best *interests* [~~interest~~] of the child. In its discretion, the circuit court may interview the child in private, but a record of the interview *shall* [~~will~~] be made, which, in the discretion of the court, may be sealed to be used only by an appellate court;

(3) The parents have the right to legal representation *in involuntary termination actions*. If the court finds that a parent who is a party in an action for involuntary termination of parental rights does not have legal representation, the circuit court shall determine if said parent is indigent and, therefore, entitled to counsel pursuant to KRS Chapter 31. If the circuit court so finds, the circuit court shall inform the parent; *and*, [~~if notification is possible, of his right to counsel.~~] upon request, or if it appears reasonably necessary in the interest of justice, the circuit court shall appoint an attorney to represent the parent pursuant to KRS Chapter 31 to be provided by, or paid for, by the finance and administration cabinet *a fee* to be set by the court and not to exceed five hundred dollars ($500);

(4) [~~The circuit court may be convened at any time wherever the judge thereof may be found within the circuit, respective of the regular term for the purpose of terminating parental rights and the~~] Proceedings *under this chapter* shall be expedited and completed as soon as practicable;

[~~(5) Notwithstanding the provisions of the Kentucky Rules of Civil Procedure, the boarding home or foster parent shall not be served with summons on behalf of the child; and~~

~~(6) If the parental rights of all living parents of the child are terminated, the circuit court shall declare the child to be a ward of the state, and vest the care, custody and control of the child in the cabinet, or in any licensed child-caring or child-placing agency or institution. If the child has a parent or parents whose rights have not been terminated by the proceedings, the child shall not be declared a ward of the state, unless the voluntary consent of the other parent or parents has been obtained or unless in the same proceeding the circuit court shall find that the other parent has filed a disclaimer of paternity or has voluntarily petitioned the court to terminate his parental rights.~~]

Section 75. KRS 625.090 is amended to read as follows:

(1) The circuit court may involuntarily terminate all parental rights of a parent of a *named* child, if the circuit court finds from the pleadings and by clear and convincing evidence that the child has been adjudged to be an abused or neglected child by a court of competent jurisdiction or is found to be an abused or neglected child by the circuit court in this proceeding and that termination would be in the best interest of the child.[~~; provided, however, that~~] No termination of parental rights shall be ordered unless the circuit court also finds by clear and convincing evidence the existence of one (1) or more of the following grounds:

(a) That the parent has abandoned the child for a period of not less than six (6) months;

(b) That the parent has inflicted or allowed to be inflicted upon the child by other than accidental means, serious physical injury;

(c) That the parent has continuously or repeatedly inflicted or allowed to be inflicted upon the child, by other than accidental means, physical injury or emotional harm;

(d) That the parent, for a period of not less than six (6) months, has continuously or repeatedly failed or refused to provide or has been substantially incapable of providing essential parental care and protection for the child and that there is no reasonable expectation of improvement in parental care and protection, considering the age of the child;

(e) That the parent has caused or allowed the child to be sexually abused or exploited; or

(f) That the parent, for reasons other than poverty alone, has continuously or repeatedly failed to provide or is incapable of providing essential food, clothing, shelter, medical care or education reasonably necessary and available for the child's well-being and that there is no reasonable expectation of significant improvement in the parent's conduct in the immediately foreseeable future, considering the age of the child.

(2) In determining the best interest of the child and the existence of a ground for termination, the circuit court shall consider *the following factors* [~~all relevant factors including~~]:

(a) Emotional illness, mental illness or mental deficiency of the parent as certified by a qualified mental health professional, which renders the parent consistently unable to care for the immediate and ongoing physical or psychological needs of the child for extended periods of time;

(b) Acts of abuse or neglect toward any child in the family;

(c) If the child has been placed with the cabinet or a child-placing *agency* or child-caring *facility* [~~agency~~], whether the cabinet has rendered or attempted to render all reasonable services to the parent which reasonably might be expected to bring about a reunion of the family, including the parent's testimony concerning such services and whether additional services would be likely to bring about lasting parental adjustment enabling a return of the child to the parent within a reasonable period of time, considering the age of the child;

(d) The efforts and adjustments the parent has made in his circumstances, conduct or conditions to make it in the child's best interest to return him to his home within a reasonable period of time, considering the age of the child;

(e) The physical, emotional and mental health of the child and the prospects for the improvement of the child's welfare if termination is ordered; and

(f) The payment or the failure to pay a reasonable portion of substitute physical care and maintenance if financially able to do so.

(3) If the parent proves the following to the satisfaction of the court, the court in its discretion may determine not to terminate parental rights:

(a) That serious physical injury to the child will not occur in the future;

(b) That continuous or repeated physical injury or emotional harm to the child will not occur in the future; or

(c) That sexual abuse or exploitation will not occur in the future.

(4) Upon the conclusion of proof and argument of counsel, the circuit court shall enter findings of fact, conclusions of law and a decision as to each parent-respondent either:

(a) Terminating the right of such parent; or

(b) Dismissing the petition and in such event stating whether the child shall be returned to the parent or shall remain in the custody of the state.

Section 76. KRS 625.100 is amended to read as follows:

(1) If the circuit court determines that [~~all parties with~~] parental rights *are* to *be* [~~the child under the law have either petitioned the court to have their parental rights~~] terminated [~~voluntarily or have had their rights terminated~~] involuntarily *in accordance with the provisions of this chapter, it shall enter* [~~by~~] an order [~~entered by a court of competent jurisdiction, and~~] that the termination of parental rights and *the* [~~their~~] transfer of custody are in the best interest of the child, and that each petitioner is fully aware of the purpose of the proceedings and the consequences of the provisions of this chapter. *The order*[~~, it~~] shall *terminate* [~~make an order terminating~~] all parental rights and obligations *of such* [~~in the~~] parent [~~in whom they have existed,~~] and *release* [~~releasing~~] the child from all legal obligations to *such parent* [~~his parents,~~] and *vest care and* [~~transferring such~~] custody *of the child in such* [~~to some other~~] person, [~~or authorized~~] agency or cabinet as [~~may, in the opinion of~~] the court *believes*[~~, be~~] best qualified.

(2) Upon consent by the cabinet for human resources, the child may be declared a ward of the state and custody vested in the cabinet or in any child-placing agency or child-caring facility licensed by the cabinet or in another person, if all persons with parental rights to the child under the law have had their rights terminated voluntarily or involuntarily. If the other person is unrelated to the child, a grant of custody shall be made only with the written approval of the secretary or his designee [~~to receive custody, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted. Such order may contain the power for the cabinet, or authorized agency to consent to the adoption of such child.~~

~~(2) Any order resulting from the voluntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference whatsoever to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request if the cabinet is not a petitioner. Such order may contain a statement of authority to place the child for adoption.~~

~~(3) Where parental rights have been terminated pursuant to this section all legal relationships between the parents and child shall cease to exist, the same as if the relationship of parent and child had never existed, except that the child shall retain the right to inherit from his parents under the laws of descent and distribution until the child is adopted.~~

~~(4) The files and records of the circuit court during proceedings for termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person except on written order of the court; provided,~~

~~that the representatives of the cabinet shall have access to the papers and records of the case without a written order of the court. No person having charge of any termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, this provision is not meant to prohibit the disclosure of facts necessary in order for a person to secure a court order for a copy of the termination order to be used in an adoption proceeding. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked~~].

SECTION 77. A NEW SECTION OF KRS CHAPTER 625.100 TO 625.110 IS CREATED TO READ AS FOLLOWS:

Following the entry of an order involuntarily terminating parental rights in a child, the child shall retain the right to inherit from his parent under the laws of descent and distribution until the child is adopted.

SECTION 78. A NEW SECTION OF KRS CHAPTER 625.100 TO 625.110 IS CREATED TO READ AS FOLLOWS:

(1) Any order resulting from the involuntary termination of parental rights of any person under the provisions of this chapter, including the caption of the order, shall contain only the name of the child, without any reference to the names of the parents whose rights have been terminated. Such order shall be duly recorded in the order book of the circuit court and a certified copy of the order given to the petitioner and to the cabinet upon request if the cabinet is not a petitioner. Such order may contain a statement of authority to place the child for adoption.

(2) The files and records of the circuit court, excluding the name or other identifying information of a prospective adoptive parent, during proceedings for involuntary termination of parental rights shall not be open to inspection by persons other than parties to such proceedings, their attorneys, and representatives of the cabinet except under order of the court expressly permitting inspection. Upon the entry of the final order in the case, the clerk shall place all papers and records in the case in a suitable envelope which shall be sealed and shall not be open for inspection by any person other than representatives of the cabinet without a written order of the court or as authorized by the provisions of KRS 199.011 et seq.

(3) No person having charge of any involuntary termination records shall disclose the names of any parties appearing in such records or furnish any copy of any such records, except upon order of the court which entered the judgment of termination; however, facts necessary in order to secure a court order for a copy of the termination order to be used in an adoption proceeding may be disclosed. The clerk of the circuit court shall set up a separate docket and order book for termination cases and these files and records shall be kept locked.

Section 79. KRS 625.110 is amended to read as follows:

[~~(1)~~] Any order for the involuntary termination of parental rights shall be conclusive and binding on all parties, except that an appeal may be taken from a judgment or order of the circuit court involuntarily terminating parental rights in accordance with the Kentucky Rules of Civil Procedure [~~and Kentucky Supreme Court rules.~~

~~(2) Any order entered as a result of the voluntary termination of parental rights shall be conclusive and binding on all parties and no appeal may be taken from a judgment of voluntary termination~~].

Section 80. KRS 630.010 is amended to read as follows:

In addition to those purposes set forth in KRS 600.010, this chapter shall be interpreted and construed to effectuate the following purposes regarding status offenders:

(1) The Commonwealth's courts shall utilize a separate and distinct set of guidelines for status offenders which reflect their individual needs;

(2) It shall be declared to be the policy of this Commonwealth that all its efforts and resources be directed at involving the child and the family in remedying the problem for which they have been referred; and

(3) Detention of status offenders in secure *juvenile* detention facilities *or juvenile holding facilities* should

only be used for very specific and constructive purposes, when all other less restrictive alternatives to detention have been attempted and are not feasible.

Section 81. KRS 630.020 is amended to read as follows:

The court shall have exclusive jurisdiction in proceedings concerning any child living, or found within the district, who allegedly:

(1) Has been *an habitual* [~~a~~] runaway from his parent or person exercising custodial control or supervision of the child;

(2) Has not subjected himself to the reasonable control of his parent or guardian or school personnel or person exercising custodial control or supervision of the child; or

(3) Has been *an* [~~a~~] habitual truant from school.

Section 82. KRS 630.040 is amended to read as follows:

Any person taking a child into custody, with all reasonable speed, shall in this sequence:

(1) Deliver the child suffering from a physical condition or illness which requires prompt medical treatment to a medical facility or physician. Children suspected of having a mental or emotional illness shall be *evaluated* [~~placed for evaluation~~] in accordance with the provisions of KRS Chapter 645;

(2) Contact a court designated worker who *shall* [~~will~~] have the responsibility for determining appropriate placement *pursuant to KRS 610.200(5)*[~~, including a parent, relative, other responsible adult, or emergency shelter; and who shall:~~

~~(a) Release the child, upon the written promise of the parent or person exercising custodial control or supervision of the child to bring the child before the court or its court designated worker at a stated time;~~

~~(b) Release the child to an adult relative or other responsible adult, if the parent refuses to accept the child or the parent cannot be found, upon the adult's written promise to bring the child before the court, or its court designated worker;~~

~~(c) If a placement is available, deliver the child to an emergency shelter; or~~

~~(d) If there is an existing commitment release the child to the custody of the cabinet~~];

(3) *If* [~~Only when~~] the court designated worker determines that the placements designated in *KRS 610.200(5) and subsection* [~~subsections~~] (1) [~~and (2)~~] of this section have been exhausted, [~~may~~] a child *may* be delivered to a secure *juvenile* detention facility *or juvenile holding facility*;

(4) When the child has not been released to his parents or person exercising custodial control or supervision, the person taking the child into custody shall make a reasonable effort promptly to give oral notice to the parent or person exercising custodial control or supervision of the child;

(5) In all instances the peace officer taking a child into custody shall provide a written statement to the court designated worker of the reasons for taking the child into custody;

(6) If the child is placed in an emergency shelter or medical facility, during the adjudication and disposition of his case, the court may order his parents to be responsible for the expense of his care; and

(7) The peace officer taking the child into custody shall within three (3) hours of taking a child into custody file a complaint with the court, stating the status offense charged by KRS number and the reason why the child was not released to the parent or other adult exercising custodial control or supervision of the child, relative or other responsible adult, a court designated agency, an emergency shelter or medical facility. Pending further disposition of the case, the court or the court designated worker may release the

child to the custody of any responsible adult who can provide adequate care and supervision.

Section 83. KRS 630.050 is amended to read as follows:

Before commencing any judicial proceedings on any complaint alleging the commission of a status offense, the party or parties seeking such court action shall meet for a conference with a court designated worker for the express purpose of determining whether or not:

(1) To refer the matter to the court by assisting in the filing of a *petition* [~~complaint~~] under KRS 610.020; [~~or~~]

(2) To refer the child and his family to a public or private social service agency. *The court designated worker shall make reasonable efforts to refer the child and his family to an agency before referring the matter to court; or*

(3) To enter into a diversionary agreement.

Section 84. KRS 630.060 is amended to read as follows:

(1) Information *supplied by* [~~from~~] the child [~~pertaining~~] to *a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written consent of the child* [~~the alleged offense or offenses obtained during this process shall not be divulged during any adjudicatory proceeding except as to a question of exhaustion of available remedies as provided by KRS Chapters 600 to 645 or to the jurisdiction of the court~~].

(2) No *complaint* [~~child~~] shall be *received by the court designated worker alleging habitual* [~~brought before the court for~~] truancy unless an adequate assessment of the child has been performed pursuant to KRS 159.140(3), (4) and (6), unless it can be shown that the assessment could not be performed due to the child's failure to participate.

Section 85. KRS 630.070 is amended to read as follows:

No child shall be placed in a secure *juvenile* detention facility *or juvenile holding facility* as a means or form of punishment *except following a finding that he is in contempt of court.* When a child is detained *for the alleged commission of a status offense* [~~as provided in KRS 630.040 for the alleged commission of an offense as provided in KRS 630.020 and not released~~], a detention hearing shall be held as soon as is practical, but within forty-eight (48) hours of the detention exclusive of weekends and holidays.

Section 86. KRS 630.080 is amended to read as follows:

In order for the court to detain the child in a secure *juvenile* detention facility *or juvenile holding facility* after the forty-eight (48) hour period, the Commonwealth shall establish probable cause at the detention hearing that[~~:~~

~~(1)~~] a status offense has been committed and that the child committed the offense. If the Commonwealth fails to establish these grounds, the complaint shall be dismissed and the child shall be released. If the grounds are established, the child may be held in *a* secure *juvenile* detention *facility or juvenile holding facility,* as provided in subsection (3) of KRS 630.040, pending an adjudicatory hearing only if the Commonwealth shows probable cause to believe *one (1) of the following* [~~that~~]:

(1)[~~(a)~~] All alternatives to secure detention have been exhausted;

(2)[~~(b)~~] The child has, within the last year, failed to appear at court hearings and requires detention to assure his presence at subsequent hearings;

(3)[~~(c)~~] The child has run away from a secure or non-secure facility;

(4)[~~(d)~~] The child has run away from his home, and his *parent* [~~parents~~], guardian, or person exercising

similar custodial control or supervision of the child has orally agreed to assume physical custody or pay for his transportation within forty-eight (48) hours. The child may on his own motion present to the court reasons why he should not be returned to his parents or person exercising similar custodial control or supervision of the child. Upon consideration of such motion *or if the parents refuse to assume custody of the child,* the court may in its discretion place the youth in a non-secure facility and concurrently order that a protective services investigation be commenced as allowed by KRS Chapter 620;

(5)[~~(e)~~] The cabinet has initiated or intends to initiate transfer of the youth by competent document under the provisions of the interstate compact pursuant to KRS Chapter 615; or

(6)[~~(f)~~] The child is a danger to himself or others, unless he is suspected of having a mental or emotional illness and requires medical attention in which case the *provisions of* [~~child shall be placed for evaluation in a facility in accordance with~~] KRS Chapter 645 *shall be followed.*

Section 87. KRS 630.090 is amended to read as follows:

No alleged status offender shall be held in a secure *juvenile* detention facility *or juvenile holding facility* as provided in KRS 630.040(3) pending adjudication for a period exceeding ten (10) days after the detention hearing pursuant to KRS 630.070, unless waived by the child, and the court considers this waiver in his best interest. Under no circumstances shall a child be held in a secure *juvenile* detention *facility* more than ten (10) days after the exercise of this waiver.

Section 88. KRS 630.100 is amended to read as follows:

No adjudicated status offender shall be held in a secure *juvenile* detention facility *or juvenile holding facility* as provided in KRS 630.040 pending disposition for a period exceeding ten (10) days after the *adjudicatory* [~~adjudication~~] hearing, unless waived by the child and the court considers it in the child's best interest. [~~Under no circumstances shall~~] A child *shall not* be held in *a* secure *juvenile* detention *facility* more than ten (10) days after the exercise of this waiver.

Section 89. KRS 630.110 is amended to read as follows:

The general conduct of *adjudicatory* [~~the adjudication~~] hearings under this section relating to status offenders shall follow the procedures established in KRS 610.070.

Section 90. KRS 630.120 is amended to read as follows:

The general conduct of the dispositional hearings under this section relating to status offenders shall follow the procedures pursuant to KRS 610.070 and:

(1) The court shall consider all appropriate local remedies to aid the child and his family subject to the following conditions:

(a) Residential and nonresidential treatment programs for status offenders shall be community-based and non-secure; and

(b) With the approval of the education agency, the court may place the child in a non-secure public or private education agency accredited by the department of education.

(2) At the disposition of a child adjudicated on a petition brought pursuant to this chapter, all information helpful in making a proper disposition, including oral and written reports may be received by the court provided that the *child, his* parents, their counsel, the prosecuting attorney, the child's counsel, or other interested parties as determined by the judge shall be afforded an opportunity to examine and controvert the reports. For good cause the court may allow the admission of hearsay evidence.

(3) The court shall first determine that all appropriate remedies have been considered and exhausted to assure that the least restrictive alternative method of treatment is utilized.

(4) The court may order the child and his family to participate in any programs which are necessary to effectuate a change in the child and the family.

(5) When all appropriate resources have been reviewed and considered insufficient to adequately address the needs of the child and his family, the court may commit the child to the cabinet for such services as may be necessary. The cabinet shall consider all appropriate local remedies to aid the youth and his family subject to the following conditions:

(a) Treatment programs for status offenders shall be, unless excepted by federal law, community-based and non-secure;

(b) The cabinet may place the child in a non-secure public or private education agency accredited by the department of education;

(c) The cabinet may initiate proceedings pursuant to KRS 610.160 when the parents fail to participate in the cabinet's treatment programs; and

(d) The cabinet may discharge the child from commitment after providing ten (10) days' prior written notice to the committing court who may object to such discharge by holding court review of the commitment under KRS 610.120.

Section 91. KRS 630.130 is amended to read as follows:

No status offender shall be held in a secure *juvenile* detention facility *or juvenile holding facility* after disposition for a period exceeding twenty-four (24) hours.

SECTION 92. A NEW SECTION OF KRS CHAPTER 630 IS CREATED TO READ AS FOLLOWS:

(1) Any child committed to the cabinet who is placed on supervised placement from a residential treatment facility by the cabinet and who violates the terms or conditions of supervised placement may be taken into custody and returned to active custody of the cabinet by any probation officer or by any peace officer on direction of the cabinet.

(2) The child may be taken into custody and held in one (1) of the cabinet's treatment facilities prior to the administrative hearing, if a preliminary hearing is held by a person designated by the cabinet within forty-eight (48) hours of such holding to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (3) of this section. The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.

(3) Whether or not the child is returned to the cabinet's active custody pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection (2) of this section, an administrative hearing shall be held within ten (10) working days of the request to readmit the child to a treatment program, unless the child and his representative request or agree to a longer period of time. The hearing shall be held by a three (3) member board designated by the cabinet to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

Section 93. KRS 630.990 is amended to read as follows:

Any person who *intentionally* violates any provision of this chapter shall be guilty of a Class B misdemeanor.

Section 94. KRS 635.010 is amended to read as follows:

(1) In each district court, the court designated worker shall receive complaints alleging that a public offense has been committed. All cases governed by KRS Chapter 640 shall be set for arraignment. All other public offenses shall be proceeded against in accordance with the following:

(a) The county attorney shall cause a review to be made of each complaint. The purpose of this review shall be to determine from the available evidence whether there are reasonable grounds to believe that the alleged facts would constitute a public offense and are sufficiently serious to warrant court action. The county attorney may elect not to proceed with the complaint and shall *dismiss* [~~retire~~] the complaint;

(b) In the event the county attorney elects to proceed, the court-designated worker shall make a preliminary determination as to whether the complaint is complete, consulting with the county attorney [~~or designee~~] as may be necessary. In any case where the court-designated worker finds that the complaint is incomplete, the court-designated worker shall return the complaint without delay to the person or agency originating the complaint or having knowledge of the facts, or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and request, and the complainant shall promptly thereafter furnish, additional information in order to complete the complaint. If the court-designated worker determines that the complaint is complete, he shall conduct a preliminary intake inquiry concerning such complaint to determine whether in the interest of justice the complaint can be resolved informally without the filing of a petition. The court-designated worker may recommend that a petition be filed. Prior to conducting a preliminary intake inquiry, the court-designated worker shall notify the child and the child's parent, guardian or other person exercising custodial control or supervision of the child in writing:

1. Of their opportunity to be present at the preliminary intake inquiry;

2. Of their right to have counsel present during the preliminary intake inquiry as well as the formal conference thereafter;

3. That their participation in the preliminary intake inquiry or any resulting plan of diversion is voluntary;

4. That all information *supplied* [~~gained~~] by *the child to a court designated worker during any process prior to the filing of the petition shall be deemed confidential and shall not be subject to subpoena or to disclosure without the written* [~~virtue of participation in the preliminary intake inquiry is privileged and that said privilege can be waived only with the~~] consent of the child; and

5. That the child has the right to deny the charge and demand a formal court hearing;

(c) Upon the completion of the preliminary intake inquiry, the court-designated worker shall conduct a formal conference at which time he shall present information obtained at the preliminary intake inquiry to the child and the child's parents or other person exercising custodial control or supervision. The court-designated worker shall set forth in writing alternative referral programs available to the child and the criteria the court-designated worker used to determine whether to proceed with a diversionary agreement or whether to refer the matter for the filing of a public offense petition. If the court-designated worker determines that, in his judgment, the interests of the child and the public will be thereby best served, he may recommend that a public offense petition not be filed. If such a recommendation is made, the court-designated worker shall advise in writing the complainant, the victim if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor and that the complainant, *victim, or law enforcement agency* may submit within ten (10) days from receipt of such notice a complaint to the county attorney [~~or designee~~] for special review;

(d) The county attorney [~~or designee~~] upon receipt of a request for special review shall consider the facts presented by the complainant and by the court-designated worker who made the recommendation that no petition be filed, before *the* [~~such~~] county attorney [~~or designee~~] makes a final decision as to whether a public offense petition shall or shall not be filed. In all cases in which the child is alleged to have committed a *public offense* [~~delinquent act~~] and is not detained, the court-designated worker shall submit his written recommendation to the county attorney or designee within twenty (20) days, exclusive of weekends and holidays, from the date the child was taken into custody or the complaint was filed. In cases where the child is *detained* [~~in detention~~], the court-designated worker's report shall be submitted within seventy-two (72) hours of the *time the child is ordered detained* [~~detention~~];

(e) In cases where the court-designated worker has recommended that a public offense petition not be filed and the complainant or victim, if any, or law enforcement agency having investigative jurisdiction of the offense has not called for a special review, said worker and the child may enter into a diversionary agreement. Such agreement may include the following: an informal plan of services provided by the court or its staff; referral of the child to a public or private organization, agency or person to assist the child and the child's family to resolve the problems presented in the complaint; referral to a community service program in accordance with the provisions of subsection (1) of KRS 635.080; restitution, limited to the amount of actual property or pecuniary loss incurred by the victim, provided that the youth has the means or could acquire the means to make restitution; other such programs or efforts which might reasonably benefit the community and the child. In assessing periods of community service to be performed and restitution to be paid by the youth who has entered into a diversion agreement, the court-designated worker shall to the extent possible involve members of the community. Such members of the community shall meet with the youth and advise the court-designated worker as to the terms of the diversionary agreement and shall supervise the youth in carrying out its terms. The diversionary agreement shall not cover a period in excess of six (6) months;

(f) If the terms of the agreement are successfully completed, the court-designated worker shall *dispose of* [~~retire~~] the complaint, the charges shall be considered dismissed and further prosecution is prohibited. In the event the child fails to comply with the terms of the agreement, the court-designated worker shall provide ten (10) days' written notice to the child and the child's parent or other person exercising custodial control or supervision and counsel of his intent to file a public offense petition based upon the original complaint, whereupon the court-designated worker shall meet and confer with the child and the child's parent or other person exercising custodial control and supervision and counsel to consider from the child's viewpoint why a petition should not be filed; and

(g) In the event that a complaint is not *disposed of* [~~retired~~] as a result of an agreement or in the event that the child fails to comply with the terms of an agreement and a petition is filed, the court shall proceed with the petition in accordance with the provisions of KRS Chapter 610 as if the agreement had never been formulated. In the event that *a* petition is filed based upon the court-designated worker's determination that the child has failed to comply with the terms of an agreement, the child may upon arraignment of said petition move for dismissal of the petition on the basis that the agreement was substantially complied with; and

(2) In the event a public offense petition is filed, it shall be verified by information and belief and contain the information listed in KRS 610.020.

Section 95. KRS 635.020 is amended to read as follows:

(1) If, prior to an adjudicatory hearing, there is a reasonable cause to believe that a child before the court has committed a felony other than those described in subsections (2) and (3) of this section, a misdemeanor, or a violation, the court shall initially proceed in accordance with the provisions of this chapter.

(2) If a child [~~over fourteen (14) before the court has been~~] charged with a capital offense, Class A felony or Class B felony, *had attained age fourteen (14) at the time of the alleged commission of the offense,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(3) If a child [~~over sixteen (16) before the court has been~~] charged with a Class C or Class D felony [~~and~~] has on two (2) prior separate occasions been adjudicated *a public offender for a felony offense or a* delinquent of a felony offense *and had attained the age of sixteen (16) at the time of the alleged commission of the offense,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(4) If a child [~~under eighteen (18),~~] previously convicted as a youthful offender under the provisions of KRS Chapter 640 is charged with [~~the commission of~~] a felony *allegedly committed prior to his eighteenth birthday,* the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(5) A child who is charged as is provided in subsection (2) of this section and is also charged with a Class C or D felony, *a misdemeanor or a violation* arising from the same course of conduct shall have all charges included in the same proceedings; and the court shall, *upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender,* [~~initially~~] proceed in accordance with the provisions of KRS 640.010.

(6) *If a person who is eighteen (18) or older and before the court is charged with a felony that occurred prior to his eighteenth birthday, the court shall, upon motion of the county attorney made prior to adjudication that the child be proceeded against as a youthful offender, proceed in accordance with the provisions of KRS 640.010.*

(7) All offenses arising out of the same course of conduct shall be tried with the felony arising from that course of conduct, *whether the charges are adjudicated under this chapter or under KRS Chapter 640 and transferred to circuit court.*

Section 96. KRS 635.050 is amended to read as follows:

[~~(1)~~] After adjudication, a determination by the court that *a child shall be detained* [~~detention~~] pending disposition [~~is necessary~~] shall be based on a finding of the court by a preponderance of the evidence that the circumstances surrounding the child are such as to endanger his safety or welfare or that of the community.

[~~(2) After the adjudication, the court may order public offenders to be evaluated pursuant to KRS Chapter 645.~~]

SECTION 97. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

No child who is found to be in contempt of court shall be detained because of such finding in a facility other than a secure juvenile detention facility or juvenile holding facility.

Section 98. KRS 635.060 is amended to read as follows:

If in its decree the juvenile court finds that the child comes within the purview of this chapter, the court, at the dispositional hearing may:

(1) Order the child to make restitution or reparation to any injured person to such extent, in such sum and upon such conditions as the court determines;

(2) Place the child on probation or under supervision in his own home or in a suitable [~~family~~] home or boarding home, upon such conditions as the court shall determine. A child so placed on probation or supervision shall be subject to the visitation and supervision of a probation officer or an employe of the cabinet. A child so placed on probation or supervision shall remain subject to the jurisdiction of the court until he becomes eighteen (18) years of age, unless he is discharged prior thereto by the court, except that if a person is placed on probation or supervision after he reaches the age of seventeen (17) years and six (6) months, such probation or supervision shall be for a period not to exceed one (1) year;

(3) Commit the child to the custody or guardianship of the cabinet or of a *child-caring facility* [~~private institution~~] or *a child-placing* [~~public~~] agency authorized to care for such children, or place the child under the custody and the supervision of a suitable person. All orders of commitment may include such advisory recommendations as the court may deem proper in the best interests of the child and of the public. Such commitment or placement shall be until the age of eighteen (18) subject to the power of the court to terminate the order and discharge the child prior thereto, except that if such commitment or placement is after a person has reached the age of seventeen (17) years and six (6) months such commitment or placement shall be for an indeterminate period not to exceed one (1) year. *The court, in its discretion, upon motion by the child and with the concurrence of the cabinet, may authorize an extension of commitment up to age twenty-one (21) to permit the cabinet to assist the child in establishing independent living arrangements*; or

(4) If the child is sixteen (16) years of age or older, order that the child be confined in an approved secure *juvenile* detention facility *or juvenile holding facility* in accordance with KRS 15A.200 for a period of time not to exceed thirty (30) days.

Section 99. KRS 635.070 is amended to read as follows:

The governing authorities of *the* [~~said~~] cabinet, agency or *facility* [~~institution~~] may discharge the child unless the court directs otherwise. Prior to [~~said~~] discharge, two (2) weeks' written notice *shall* [~~must~~] be given to the committing court, to the legal representative of the child and to the county attorney of the county in which the committing court presides. During the period of commitment or placement, the court may review a dispositional order and may continue or terminate such order as the court deems essential to the best interests of the child. In committing a child to a *child-caring facility* [~~private institution~~] or *a child-placing* agency the court shall select one (1) that is approved by the cabinet and children committed to such *a facility* [~~an institution~~] or agency shall be subject to the visitation and supervision of a probation officer or family service worker.

Section 100. KRS 635.080 is amended to read as follows:

If [~~(1) In the event~~] a child who has not reached his eighteenth birthday commits a new offense while under the jurisdiction of the court or during the period of commitment, the court *of the county where the new offense is committed* shall have [~~exclusive, original~~] jurisdiction of the new offense *for purposes of adjudication but may transfer the case for disposition to the court having jurisdiction of the prior offense.* If a child fourteen (14) or older has been adjudicated *a public offender,* [~~delinquent~~] the court in its discretion may order participation in a community services work program. If the child is committed to the cabinet on a previous offense, the child shall be released from commitment if ordered to a work program. The work program shall be of a constructive nature designed to promote the rehabilitation of the child. The program shall be appropriate to the age level and physical ability of the child and shall be combined with counseling *and supervision* from a probation officer or other responsible person. The work program shall not be scheduled during such times that would interfere with educational, occupational, or religious obligations of the child. Assignment to a community services work program shall be made to a governmental or nonprofit community organization for a specified period of time, not to exceed one hundred twenty (120) hours. A child may be directed to participate in a community services work program as provided in this subsection for the purposes of restitution.

[~~(2) In lieu of commitment to the cabinet, if a child is sixteen (16) years or older and is adjudicated delinquent, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay such fine. Fines shall be levied consistent with the schedule set forth below:~~

~~(a) For a felony, not to exceed five hundred dollars ($500);~~

~~(b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and~~

~~(c) For a violation, not to exceed one hundred dollars ($100).~~

~~(3) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's exercising its inherent contempt powers.~~

~~(4) Any detention imposed for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure detention facility. Any portion of a day spent in detention pursuant to the court's exercising of its contempt powers shall be deemed as one (1) day for purposes of serving a detention term.~~]

SECTION 101. A NEW SECTION OF KRS CHAPTER 635 IS CREATED TO READ AS FOLLOWS:

(1) In lieu of commitment to the cabinet, if a child is sixteen (16) years or older and is adjudicated a public offender, the court may in its discretion impose a fine. The imposition of a fine for an offense committed by a child shall be based upon a determination that such disposition is in the best interest of the child and to aid in his rehabilitation. Any such order shall include a finding that the child is financially able to pay the fine. Fines shall be levied consistent with the schedule set forth below:

(a) For a felony, not to exceed five hundred dollars ($500);

(b) For a misdemeanor, not to exceed two hundred fifty dollars ($250); and

(c) For a violation, not to exceed one hundred dollars ($100).

(2) When a child is directed by the court to pay a fine, the court may provide for payment to be made within a specified period of time or in specified installments. If such provision is not made a part of the court's disposition, the fine shall be payable immediately. Nothing contained herein shall be construed as limiting the court's inherent contempt powers.

(3) Any public offender detained for failure to comply with the court order shall not be scheduled for a time that would interfere with the educational, occupational, or religious obligations of the child, and shall be in a secure juvenile detention facility or juvenile holding facility. Any portion of a day a child is detained pursuant to the court's exercising its contempt powers shall be deemed as one (1) day for purposes of serving

a detention term.

(4) Fines imposed and collected pursuant to this section shall be paid by the circuit clerk to the local alternatives to detention fund created by KRS 15A.250.

Section 102. KRS 635.090 is amended to read as follows:

(1) If the court chooses to treat the child as other than a youthful offender, [~~or~~] if the Commonwealth fails to prove the criteria bringing a case under KRS Chapter 640 *or if the county attorney elects not to proceed under KRS Chapter 640,* the court may:

(a) If a child is fourteen (14) years of age or older, and is adjudicated *a public offender* [~~delinquent~~] in the commission of a capital offense, Class A felony or Class B felony, the court in its discretion may commit the child to the cabinet for purposes of treatment or placement in a facility or program for an indeterminate period of time not *less than six (6)* [~~exceeding twelve (12)~~] months. *The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday*; or

(b) If a child is sixteen (16) years of age or older, and is adjudicated *a public offender* [~~delinquent~~] in the commission of a felony offense and has previously been adjudicated delinquent of *two (2) or more* [~~a~~] felony *offenses not arising out of the same course of conduct* [~~offense~~] in two (2) or more separate adjudications, *or has previously been adjudicated a public offender for two (2) or more felony offenses not arising out of the same course of conduct in two (2) or more separate adjudications,* the court in its discretion may commit the child to the cabinet for purposes of *treatment or* placement in a facility or [~~other treatment~~] program for an indeterminate period of time not *less than six (6)* [~~exceeding twelve (12)~~] months. *The cabinet may petition the court to continue the commitment for the purpose of completing a treatment program but the commitment shall not extend past the child's nineteenth birthday.*

(2) The cabinet shall maintain jurisdiction over the child during the period of the commitment. The committing court may, upon motion of the cabinet, order the child released from the facility or program operated by the cabinet.

(3) *The cabinet shall notify the committing court if it transfers the child to a different facility or program and note the reasons for the transfer.*

(4) The cabinet shall notify the committing court prior to the termination of treatment or placement as to the future intentions of the cabinet as they relate to continued treatment of the child.

(5)[~~(4)~~] The committing court may, upon motion of the child, grant shock probation to any child committed under this section after the child has been committed for a minimum of thirty (30) days.

(6)[~~(5)~~] After a child has been committed to the cabinet as provided in this section he may not then be transferred to the circuit court as provided for in KRS 640.020.

Section 103. KRS 635.100 is amended to read as follows:

(1) Any child committed to the cabinet who is placed on supervised placement from a residential treatment facility by the cabinet and who violates the terms or conditions of supervised placement may be taken into custody and returned to active custody of the cabinet by any probation officer or by any peace officer on direction of the cabinet.

(2) *The* [~~Such~~] child may be taken into custody and *held* [~~detained~~] in one of the cabinet's treatment facilities prior to the administrative hearing, provided a preliminary hearing is held by a person designated by the cabinet within forty-eight (48) hours of *the holding* [~~such detention~~] to determine if there is probable cause to believe that the child violated his supervised placement conditions and, if so, to determine if the best interest of the child requires that the child be held in custody pending an administrative hearing pursuant to subsection (3) of this section. *The child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and to be represented by counsel at the preliminary hearing.*

(3) *If* [~~Whether or not~~] the child is returned to the cabinet's active custody pending a hearing, before readmitting the child to a treatment program pursuant to this section, except as provided in subsection (2) of this section, an administrative hearing shall be held within ten (10) working days of the request to readmit the child to a treatment program unless the child and his representative request or agree to a longer period of time. The hearing shall be held by a three (3) member board designated by the cabinet to hear such matters at which time the child and his parent or other person exercising custodial control or supervision shall be given an opportunity to be heard and be represented by counsel.

(4) The cabinet may promulgate administrative regulations to implement the provisions of this chapter.

Section 104. KRS 640.010 is amended to read as follows:

(1) For children who are alleged to be youthful offenders by falling in the purview of KRS 635.020(2), (3), (4), (5), [~~or~~] (6), *or (7),* the court shall *at arraignment assure that the child's rights as specified in KRS 610.060 have been explained and followed* [~~hold a preliminary hearing during which counsel paid for, or provided by, the department of public advocacy is appointed for the child, if the child has not retained private counsel. The Commonwealth shall establish probable cause that the child committed the offense charged and in addition shall prove the existence of at least one (1) of the following factors:~~

~~(a) The child has been adjudicated delinquent of a felony within one (1) year prior to the commission of the charged offense; or~~

~~(b) The child has failed to comply with the conditions of a dispositional order imposed following an adjudication of delinquency for a felony offense during the year immediately preceding the bringing of this action~~].

(2) *In the case of a child alleged to be a youthful offender by falling within the purview of KRS 635.020, the court shall upon motion by the county attorney to proceed under this chapter, conduct a preliminary hearing to determine if the child should be transferred to circuit court as a youthful offender. The preliminary hearing shall be conducted in accordance with the Rules of Criminal Procedure.*

(a) At the preliminary hearing the court shall determine if there is probable cause to believe that an offense was committed, that the child committed the offense, and that the child is of sufficient age and has the requisite number of prior adjudications, if any, necessary to fall within the purview of KRS 635.020.

(b) If the court determines probable cause exists, the court shall consider the following factors before determining whether the child's case shall be transferred to the circuit court:

1. The seriousness of the alleged offense;

2. Whether the offense was against person or property, with greater weight being given to offenses against persons;

3. The maturity of the child as determined by his environment;

4. The child's prior record;

5. The best interest of the child and community;

6. The prospects of adequate protection of the public; and

7. The likelihood of reasonable rehabilitation of the child by the use of procedures, services and facilities currently available to the juvenile justice system.

(c) If, following the completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section, that the child should be transferred to circuit court, the court shall issue an order transferring the child as a youthful offender and shall state on the record the reasons for the transfer. The child shall then be proceeded against in the circuit court as an adult, except as otherwise provided in this chapter.

(d) If, following completion of the preliminary hearing, the court is of the opinion, after considering the factors enumerated in subsection (b) of this section that [~~If the Commonwealth establishes probable cause that the child committed the offense charged and sustains its burden of proving the existence of at least one (1) of the factors set forth above, the charges against the child shall be transferred to the circuit court to be tried as a youthful offender, except that the child may present to the court reasons why he should not be transferred to the circuit court.~~

~~(3) If the Commonwealth fails to prove the existence of at least one (1) of the factors listed in subsection (1) of this section or if the court determines the child's case should be dealt with in the juvenile court,~~] the child shall not be transferred to the circuit court, *the case* [~~but~~] shall be dealt with as provided in KRS Chapter 635.

(3) If the child is transferred to circuit court under this section and the grand jury does not find that there is probable cause to indict the child as a youthful offender, as defined in KRS 635.020(2), (3), and (4), but does find that there is probable cause to indict the child for another criminal offense, the child shall not be tried as a youthful offender in circuit court but shall be returned to district court to be dealt with as provided in KRS Chapter 635.

Section 105. KRS 640.020 is amended to read as follows:

(1) Any person proceeded against as a youthful offender under the provisions of this chapter *who is under eighteen (18) years of age* shall, [~~regardless of his age~~], be *detained in a secure juvenile detention facility or a juvenile holding facility* [~~transferred to a facility meeting the requirements of KRS 610.230~~], if he is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.

(2) Any person proceeded against as a youthful offender under the provisions of this chapter who is eighteen (18) years of age or older shall be lodged as an adult if he is unable to meet the conditions of release or bail established pursuant to KRS Chapter 431 and the Kentucky Rules of Criminal Procedure.

Section 106. KRS 640.030 is amended to read as follows:

A youthful offender, if *he is* convicted of, or pleads guilty to, a felony offense in circuit court, shall be subject to the same type of sentencing procedures and duration of sentence, including probation and conditional discharge, as an adult convicted of a felony offense, except that:

(1) The presentence investigation required by KRS 532.050 shall be prepared by the cabinet for human resources or by its designated representative;

(2) Any sentence imposed upon the youthful offender shall be served in a facility or program operated by the cabinet for human resources until: the expiration of the sentence; the youthful offender is paroled; the youthful offender is probated; or the youthful offender reaches the age of eighteen (18), whichever first occurs. If an individual sentenced as a youthful offender attains the age of eighteen (18) prior to the expiration of his sentence, and has not been probated or released on parole, that individual shall be returned to the sentencing court. At that time the sentencing court shall make one (1) of the following determinations:

(a) Whether the youthful offender shall be placed on probation or conditional discharge;

(b) Whether the youthful offender shall be returned to the cabinet for human resources to complete a treatment program, which treatment program shall not exceed a period in excess of six (6) months. At the conclusion of the treatment program or at the expiration of six (6) months, whichever first occurs, the individual shall be finally discharged; or

(c) Whether the youthful offender shall be incarcerated in an institution operated by the corrections cabinet; and

(3) If a child has attained the age of eighteen (18) prior to sentencing, he shall be returned to the sentencing court at the end of a six (6) month period if he has been sentenced to a period of placement or treatment in a cabinet for human resources facility or program. The court shall have the same dispositional options as currently provided in subsection (2) of this section, except that youthful offenders shall not remain in

the care of the cabinet for human resources after the age of nineteen (19).

(4) A youthful offender who is a sexual offender as defined by KRS 197.410(1) shall be provided a sexual offender treatment program as mandated by KRS 439.340(10) by the cabinet for human resources pursuant to KRS 208.800 if the youthful offender has not been transferred to the corrections cabinet pursuant to KRS 640.070.

Section 107. KRS 640.080 is amended to read as follows:

Youthful offenders shall be subject to the jurisdiction of the Kentucky parole board *and may be placed on parole to the corrections cabinet.* The parole board may, with regard to a youthful offender, exercise any of the powers which it possesses pursuant to KRS Chapter 439, except as provided in KRS Chapters 600 to 645.

Section 108. KRS 640.100 is amended to read as follows:

All officials of the cabinet for human resources and the corrections cabinet shall furnish members of the *parole* board, or its properly accredited representatives:

(1) Access at all reasonable times to any youthful offender over whom the board has jurisdiction under this chapter;

(2) Facilities for communicating with and observing such youthful offender;

(3) Such reports as the board shall require concerning the conduct and character of any youthful offender in its custody; and

(4) Any other facts deemed pertinent by the board in determining whether such youthful offender shall be paroled.

Section 109. KRS 645.020 is amended to read as follows:

The definitions in KRS Chapter 600 shall apply to this chapter. In addition, unless the context requires otherwise:

(1) "Convalescent leave" means an authorized release not to exceed ninety (90) days of a child admitted to a hospital under this chapter;

(2) "Danger to himself or others" means that it is shown by substantial proof that in the near future the child may attempt suicide or may cause substantial physical harm or threat of substantial physical harm to himself or others, as evidenced by recent threats or overt acts, including acts by which he deprives himself or others of the basic means of survival, including reasonable shelter, food or clothing. In determining whether a child presents a danger to himself, factors to be considered shall include, but shall not be limited to, an established pattern of past dangerous behavior;

(3) "Hospital" means a licensed private or public institution, health care facility, or part thereof, approved by the cabinet to treat children who are mentally ill;

(4) "Least restrictive alternative" means the treatment and conditions of treatment for a child which, separately and in combination:

(a) Are no more harsh, hazardous or intrusive than necessary to achieve acceptable treatment objectives for the child; and

(b) Involve no inpatient care restrictions on physical movement except as reasonably necessary for the administration of treatment or for the protection of the child or others from physical injury.

In determining the least restrictive alternative, factors to be considered shall include, but not be limited to, the likelihood, based on his prior outpatient treatment, that he will benefit from outpatient treatment;

(5) "Mental health care program" means a nonresidential service providing children psychological or psychiatric treatment for emotional, mental, or behavorial problems;

(6) "Mental health group home" means a community-based facility established to serve not less than four (4) nor more than eight (8) mentally ill children with a treatment program developed and supervised by a qualified mental health professional. Mental health group homes shall not be adjacent to or part of *a residential treatment facility or a hospital* [~~an institutional campus~~]; and

(7) "Mentally ill child" means that considering the child's age and development, he has a substantially impaired capacity to use self-control, judgment or discretion in the conduct of his affairs and social relations, his behavior is maladaptive or he exhibits recognized emotional symptoms which can be related to physiological, psychological or social factors.

Section 110. KRS 645.030 is amended to read as follows:

An authorized staff physician may admit for observation, diagnosis, and treatment at a hospital any child who is mentally ill or has symptoms of mental illness:

(1) Upon written application of a parent or other person exercising custodial control or supervision, if the child is under sixteen (16) years of age. At or before the child's admission, the *child,* parent or other person shall be informed of his rights under KRS 645.230 and 645.240. Any child admitted under this subsection who reaches his sixteenth [~~(16th)~~] birthday while hospitalized shall consent to his continued hospitalization, or shall request his release. If the child fails to choose, the hospital shall advise the court designated worker and the parent or other person exercising custodial control or supervision;

(2) Upon written application by a child who is at least sixteen (16) years of age and one of his parents or a person exercising custodial control or supervision. At or before admission, the child shall be informed of his right to give notice of his intent to leave under KRS 645.190 and his right to consult an attorney or his court designated worker under KRS 645.130. The child may consult an attorney prior to his admission; or

(3) Upon written application by a child who is at least sixteen (16) years of age. At or before admission, the child shall be informed of his rights under KRS 645.190 and his parents' rights under KRS 645.220, 645.230 and 645.240.

SECTION 111. A NEW SECTION OF KRS 645.030 TO 645.040 IS CREATED TO READ AS FOLLOWS:

(1) A child hospitalized under this chapter shall have the following rights:

(a) The right to due process as defined in KRS 645.170, within the hospital;

(b) The right to convalescent leave status if appropriate;

(c) The right to be adequately informed as to his individual treatment program;

(d) The right to assist in the planning of his treatment program;

(e) The right to refuse treatment subject to the provisions of KRS 645.170;

(f) The right to maintain and use personal possessions and money;

(g) The right to receive visitors subject to the provisions of KRS 645.170;

(h) The right to receive payment for work performed on behalf of the hospital;

(i) The right to refuse intrusive treatment subject to the provisions of KRS 645.170;

(j) The right to be free from unreasonable use of seclusion and restraint subject to the provisions of KRS 645.170;

(k) The right to seek relief from participating in his treatment plan; and

(l) The right not to be transferred from one (1) facility to another, subject to the provisions of KRS 645.170.

(2) A child who is involuntarily hospitalized under this chapter shall have a right to a complete record of the court proceedings without charge for appeal purposes, the right to appeal without bond or filing fee, and the right of habeas corpus.

(3) Any child who believes that any right guaranteed by this chapter has been violated shall have the right to contact the court designated worker in the county where the hospital is located to communicate with the worker and the court.

Section 112. KRS 645.040 is amended to read as follows:

A parent or other person exercising custodial control or supervision of a child, including a hospital or the state *or any interested person,* may seek to hospitalize a child who is mentally ill or has symptoms of mental illness by filing a petition for certification with the court.

Section 113. KRS 645.060 is amended to read as follows:

(1) Upon receipt of a petition for certification, the court shall appoint counsel from the department of public advocacy to represent the child at every stage of the proceedings.

(2) [~~Counsel shall advance the express wishes and shall advance the best interest of the child at all pre-adjudicatory and adjudicatory proceedings. During dispositional proceedings, he may advance the best interest of the child.~~

~~(3)~~] Within seven (7) days, exclusive of weekends and holidays, of the filing of a petition, counsel shall advise the court in writing whether the child wishes to contest the petition:

(a) If the child does not wish to contest the petition, the court may order the child hospitalized for a period not to exceed sixty (60) days; and

(b) If the child wishes to contest the petition, a certification hearing shall be held within seven (7) days, exclusive of weekends and holidays, of the filing of the child's wishes. Pending the certification hearing, the child's placement shall remain unchanged unless the court finds a change would promote the best interest of the child.

(3)[~~(4)~~] The court may order the parents to pay for the child's counsel.

Section 114. KRS 645.070 is amended to read as follows:

(1) All hearings under this chapter shall be conducted in accordance with the Kentucky Rules of Criminal Procedure unless otherwise provided.

(2) Hearings under this chapter may be conducted in an informal manner, consistent with orderly procedures, and in a physical setting not likely to have a harmful effect on the child's physical or mental health. Hearings may be held in chambers, the hospital, or any other suitable place.

(3) The child shall have the right to be present at any hearing under this chapter unless:

(a) He and his counsel have waived this right; or

(b) On motion of any interested party, the court determines the child's presence at all or part of the hearing *is likely to have a harmful effect on* [~~would be seriously detrimental to~~] the child's *physical or mental health* [~~medical condition or treatment~~].

(4) The child and his counsel shall have the right to cross-examine witnesses and to present testimony and evidence in opposition to certification, including the testimony of a qualified mental health professional.

(5) The child's parents shall have a right to participate in the hearing.

(6) The court may, on its own motion, subpoena and question relevant witnesses.

Section 115. KRS 645.080 is amended to read as follows:

(1) Disclosures made by a child during observation, diagnosis, or treatment shall be admissible during the certification hearing under this chapter.

(2) No disclosure made by the child under this chapter shall be admissible in any *public offense actions* [~~delinquency~~] or criminal proceedings unless the child introduces evidence concerning his mental condition at such a proceeding.

Section 116. KRS 645.100 is amended to read as follows:

(1) Within three (3) days, exclusive of weekends and holidays, of the conclusion of the certification hearing, the court shall enter an order denying or granting the petition and shall state in writing the factual findings regarding criteria specified in KRS 645.090.

(2) If the petition is denied, the court may release the child[~~, may commit the child to the cabinet,~~] or may enter an emergency custody order *for purposes of proceedings under other provisions of KRS Chapters 600 to 645* to secure proper care for the child. [~~The cabinet may place the child in a clinical treatment facility, mental health group home or mental health care program.~~]

(3) If the petition is granted, the court shall authorize the child's hospitalization for a period of no more than sixty (60) days. The court shall order the person who is to transport the child to the hospital to deliver to the hospital copies of orders and all relevant information concerning the child's involuntary hospitalization. If the child is already hospitalized, the court shall otherwise arrange for the prompt transmittal of orders and all relevant information to the hospital.

Section 117. KRS 645.110 is amended to read as follows:

(1) If the petitioner or other interested person desires to continue a child's hospitalization beyond the initial sixty (60) days, he shall file a petition for recertification before the original sixty (60) days *expire* [~~expires~~]. The procedures and rights specified in KRS 645.050 to 645.100 apply to recertification petitions and hearings except as otherwise specified in this section.

(2) The court may deny the petition or may authorize a continuation of the child's hospitalization for a period of no more than one hundred eighty (180) days.

(3) If the child has been represented previously, the same attorney shall continue to represent him at the recertification hearing unless the court determines otherwise for good cause.

(4) The child shall be brought to the court for the initial and subsequent recertification hearings unless the *court determines the child's presence at all or part of the hearing is likely to have a harmful effect on the* child's physical *or mental health* [~~condition would be threatened~~].

(5) In evaluating the criteria specified in KRS 645.090 at a recertification hearing, the court shall consider the child's prior treatment, the ability of the hospital to provide appropriate treatment, and the likelihood of future improvement through treatment.

Section 118. KRS 645.120 is amended to read as follows:

(1) *If* [~~When~~], as a result of mental illness, a child appears in need of immediate hospitalization for observation, diagnosis, or treatment, *a peace officer or* any interested person may either take the child to a hospital, *secure juvenile detention facility, juvenile holding facility, or another less restrictive alternative* or file a petition for emergency hospitalization. Upon filing a petition, a peace officer may *place a* [~~detain the~~] child up to twenty-four (24) hours, excluding weekends and holidays, in a *mental health* facility, *if one (1) is available, or if such facility is not available, secure juvenile detention facility, juvenile holding facility or another less restrictive alternative* [~~other than one listed in KRS 610.230~~]. *The peace officer shall notify the court designated worker of the child's placement, unless he takes the child to a hospital. Within twelve (12) hours, the peace officer shall, if no other party can be found, file a petition, unless the child has been taken to a hospital.*

(2) On the basis of a prompt examination and any other available information *concerning a child who is present at or presented at a hospital,* an authorized staff physician shall determine *within twenty-four (24) hours* if the child needs immediate hospitalization *after which the child shall be released within* [~~for a period not to exceed~~] seventy-two (72) hours *unless he is held pursuant to other provisions of this chapter.* [~~:~~]

(a) The hospital may accept physical custody of the child and may request the person who brought the child to remain on the premises until the authorized staff physician makes a determination;

(b) If the authorized staff physician determines that the child, as a result of mental illness, appears to need immediate hospitalization, he shall admit the child for observation, diagnosis, and treatment, and shall, if he deems it appropriate, file a certification petition. If the proponent of emergency hospitalization is not the child's legal custodian, the hospital shall immediately notify the child's parent or other person exercising custodial control or supervision including, if applicable, the state; and

(c) If the authorized staff physician determines the child does not need immediate hospitalization, he shall release the child *to a parent, person exercising custodial control or supervision or an agency having custody of the child* and make whatever recommendations or referrals he deems appropriate.

(3) The petition for emergency hospitalization shall state the petitioner's belief, including its factual basis, that the child, as a result of mental illness, needs immediate hospitalization for observation, diagnosis, and treatment. Within *twenty-four (24)* [~~forty-eight (48)~~] hours of the filing, exclusive of weekends and holidays, the court shall *on an ex parte basis, which may be by telephone*:

(a) Deny the petition; or

(b) Issue an order authorizing a peace officer to transport the child to a designated hospital for evaluation for emergency hospitalization, at which time two (2) qualified mental health professionals, at least one (1) of whom is an authorized staff physician, shall follow the procedures specified in subsection (2) of this section. *If the child is committed to the cabinet or will be treated by the cabinet,* the court shall notify the cabinet of its order at once and shall also advise the cabinet of the sex and condition of the child who is to be transported. The cabinet shall pay the actual traveling expenses of the child and the official transporting him both to and from the designated hospital.

(4) An emergency hospitalization of a child may not exceed seven (7) days, exclusive of weekends and holidays, unless a certification petition is filed before the seven (7) days expire.

(5) If it appears that a child committed to the cabinet is mentally ill, the cabinet may use state mental hospital facilities or other resources for observation of mental conditions. This period of observation shall not exceed thirty (30) days. *If a qualified mental health professional not employed by the cabinet finds that the child does not meet the definition of a "mentally ill child" under KRS 645.020(7), the child shall be discharged. During the thirty (30) days, a child who is at least sixteen (16) years of age may apply for admission as a voluntary patient. During the thirty (30) days, voluntary admission of a child who is under sixteen (16) years of age may be applied for by a parent, physician or other person exercising custodial control or supervision.* After thirty (30) days, the child shall be removed or a certification petition shall be filed under this chapter.

Section 119. KRS 645.150 is amended to read as follows:

(1) A child hospitalized under this chapter *shall* [~~is entitled to~~] receive necessary and appropriate treatment.

(2) Except as provided for in KRS 645.120, no child shall be hospitalized involuntarily unless in the opinion of two (2) qualified mental health professionals, at least one (1) of whom is a physician, he meets the criteria set out in KRS 645.090.

(3) *An* [~~If the~~] authorized staff physician *shall discharge any voluntary patient who is no longer mentally ill to a parent, guardian or person exercising custodial control or supervision, or to an appropriate adult or agency having custody* [~~believes a child does not meet or no longer meets the criteria set out in KRS 645.090, the child shall be released or discharged~~].

(4) A hospital which discharges a child *for any reason* shall notify *in writing* the court which originally certified hospitalization, explaining the circumstances under which the child was discharged, as soon as practicable.

SECTION 120. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

(1) The certification referred to in this chapter shall be in the form prescribed by the department. The certification shall state that the child has been examined by each of the qualified mental health professionals making the certification within twenty-four (24) hours, excluding weekends and holidays, of the date of their certification. It shall state the facts and circumstances upon which the judgment of the qualified mental health professional is based and shall be sworn to before a notary or the clerk or judge of the court.

(2) The qualified mental health professional shall be entitled to a fee for examination and certification, to be paid by the county in which the petition is filed, upon a certified copy of an order of allowance made by the court holding the hearing.

Section 121. KRS 645.170 is amended to read as follows:

(1) Every hospital which treats children under this chapter shall have a review committee of three (3) qualified mental health professionals appointed by the hospital director. The review committee shall have the authority to review the appropriateness of a patient's individual treatment plan.

(2) Upon the written refusal of an involuntary patient to participate in any or all aspects of his treatment plan, the review committee shall examine the appropriateness of the patient's individual treatment plan. After a patient refuses to participate in his treatment plan and until his disagreement with the plan has been resolved, the hospital may administer only that treatment which the treating physician determines is necessary to protect the patient from harming himself or others. Within three (3) days, exclusive of weekends and holidays, of the refusal, the review committee shall meet with the patient and his counsel or court designated worker to discuss their recommendations.

(3) If the patient still refuses to participate in any or all aspects of his individual treatment plan, the hospital may petition the district court for a de novo determination of the appropriateness of the proposed treatment. Within seven (7) days *of the filing of the hospital's petition*, excluding weekends and holidays, the court shall conduct a hearing, consistent with the patient's right to due process of law, and shall *consider all* [~~utilize the following~~] factors in reaching its determination, *including but not limited to*:

(a) Whether the treatment is necessary to protect other patients or the patient himself from harm;

(b) Whether the patient is incapable of giving informed consent to the proposed treatment;

(c) Whether any less restrictive alternative treatment is available; [~~and~~]

(d) Whether the proposed treatment carries any risk of permanent side effects*; and*

(e) Whether the proposed treatment is likely to improve the patient's condition.

(4) Upon the completion of the hearing, the court shall, *considering the proof and from a preponderance of the evidence finding that the factors listed in subsection (3) of this section have been established*, enter an

appropriate judgment, *enumerating the factors found to exist,* which *judgment* shall be considered final for purposes of appeal. No court shall consent to psychosurgery or electroshock therapy nor shall it order such treatment. If the court denies the hospital the right to administer the treatment in question, the hospital may discharge the child.

Section 122. KRS 645.180 is amended to read as follows:

(1) Upon notice to the court, an authorized staff physician may release an involuntary patient on convalescent leave not to exceed ninety (90) days. The physician may authorize convalescent leave only if he concludes that the patient would not present a danger or a threat of danger to himself or others during such a leave. Release on convalescent leave shall [~~not~~] terminate the involuntary hospitalization order and shall include provisions for a jointly developed treatment plan by the hospital and by the provider of outpatient care who will provide follow-up care and the continual monitoring of the patient's condition by the provider.

(2) [~~The hospital may at any time readmit a patient on convalescent leave without additional court proceedings.~~] If there is reason to believe that [~~it is in the best interest of~~] the patient *meets the criteria for involuntary hospitalization* [~~to be rehospitalized~~], the cabinet, [~~or~~] an authorized staff physician of the hospital *or other interested person* may *file a petition for certification or may proceed with an emergency hospitalization under KRS 645.120* [~~issue an order for the immediate rehospitalization of the patient. Such an order, if not voluntarily complied with shall, upon endorsement by a judge of any court of the county in which the patient is a resident or is present, authorize any health or police officer to take the patient into custody and transport him to the hospital. Notice of the rehospitalization and the rehospitalization order shall be given to the court which originally certified hospitalization as soon as practicable~~].

(3) At the conclusion of a convalescent leave, the child may be readmitted to the hospital *voluntarily,* [~~if the involuntary hospital order has not expired, a new convalescent leave may be initiated, or~~] the child may be discharged *or, if appropriate, the cabinet, an authorized staff physician, or other interested person may file a petition for certification or may proceed with an emergency hospitalization under KRS 645.120.*

Section 123. KRS 645.210 is amended to read as follows:

(1) After a notice of contest has been received, the hospital may continue the hospitalization on an involuntary basis until a hearing has been held and the court orders otherwise. In no case may the child be held more than fifteen (15) days beyond the filing of the notice of contest, unless a certification hearing has been held within seven (7) days of the filing of the notice of contest.

(2) A hearing to determine the necessity for continued hospitalization shall be held within seven (7) days of the court's receipt of the notice of the contest. If the court concludes that the child does not meet the criteria set out in KRS 645.090, the court may order the child discharged[~~, may commit the child to the cabinet,~~] or may enter an emergency custody order *for purposes of proceeding under other provisions of KRS Chapter 600 to 645* to secure proper care for the child. The cabinet may place the child in a clinical treatment facility, mental health group home or mental health care program.

Section 124. KRS 645.220 is amended to read as follows:

(1) *If* [~~When~~] a child who is at least sixteen (16) years of age is voluntarily admitted to a hospital under this chapter, the hospital shall give notice within twenty-four (24) hours to the child's parents or other person exercising custodial control or supervision, including the state, if applicable.

(2) [~~When a petition for certification or for emergency hospitalization is filed, the court shall immediately notify the child's parents or other person exercising custodial control or supervision, including the state, if applicable.~~

~~(3)~~] Notices under this section shall advise the recipient of the following:

(a) The name, address, telephone number and name of the hospital's administrator;

(b) The hospital's policies concerning visitation and other communications;

(c) The right of the parent or other person exercising custodial control or supervision to participate in the child's treatment; and

(d) The right of the parent or other person exercising custodial control or supervision to participate in any proceedings under this chapter, including the right to seek discharge of the child under KRS 645.230.

(3) When a petition for certification or for emergency hospitalization is filed, the court shall immediately notify the child's parents or other person exercising custodial control or supervision, including the state, if applicable.

(4) Notices under this section shall be in the form most likely to reach the intended person.

Section 125. KRS 645.230 is amended to read as follows:

(1) The *child,* parent or other person exercising custodial control or supervision of a child hospitalized under this chapter shall be entitled to confer at regular intervals with the treating or admitting physician or a member of the child's treatment team concerning the child's condition, treatment, or diagnosis. The hospital or other proponent of certification may request that the parent or other person exercising custodial control or supervision of a child be available for consultation and cooperation in connection with the treatment process and may seek a court order to require such cooperation.

(2) A parent or other person exercising custodial control or supervision of a child who has been hospitalized pursuant to KRS 645.030 may at any time file a notice to withdraw the child from the hospital. Upon receipt of such notice, the hospital may discharge the child immediately to the custody of his parent or other person exercising custodial control or supervision, or if in the opinion of the treating physician release would be seriously detrimental to the child's health, the physician shall:

(a) Discharge the child to the custody of his [~~or her~~] parent or other person exercising custodial control or supervision against medical advice, after advising them against discharge and seeking their written acknowledgment that they have been so advised; or

(b) Refuse to discharge the child for a period of no more than *seventy-two (72) hours* [~~three (3) days~~], exclusive of weekends and holidays, after receipt of the notice to withdraw, provided that the hospital or the physician files a petition for certification within the three (3) days, exclusive of weekends and holidays, in which case the hospital may hold the child until the court's ruling following the certification hearing.

Section 126. KRS 645.240 is amended to read as follows:

(1) A child admitted to a hospital pursuant to [~~subsection (2) or (3) of~~] KRS 645.030 may object to a discharge requested by his parent or other person exercising custodial control or supervision by stating in writing his objection and his desire to remain as a patient.

(2) If the hospital desires to continue observation, diagnosis, or treatment of the child, it shall notify the parent or other person exercising custodial control or supervision within three (3) days, exclusive of weekends and holidays, and may continue to treat the child. The hospital shall also notify the parent or the person of his right to file with the court a petition to discharge, stating the basis for the parent or other person's belief that the child no longer meets the criteria set out in KRS 645.090.

(3) Upon the filing of a petition to discharge, the procedures for certification hearings shall apply except that the parent or other person exercising custodial control or supervision shall have the burden to demonstrate that the criteria for hospitalization are not met.

SECTION 127. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

Appeals from the final orders or judgments of the court made and entered in proceedings under this chapter shall be taken in the same manner as other appeals from district to circuit court.

SECTION 128. A NEW SECTION OF KRS CHAPTER 645 IS CREATED TO READ AS FOLLOWS:

(1) No monetary liability and no cause of action shall arise against any qualified mental health professional for failing to predict, warn or take precautions to provide protection from a patient's violent behavior, unless the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of physical violence against a clearly identified or reasonably identified victim, or unless the patient has communicated to the qualified mental health professional or other person serving in a counselor role an actual threat of some specific violent act.

(2) The duty to warn or to take reasonable precautions to provide protection from violent behavior arises only under limited circumstances specified in subsection (1) of this section. The duty to warn a clearly or reasonably identifiable victim shall be discharged by the qualified mental health professional or person serving in a counselor role if reasonable efforts are made to communicate the threat to the victim and to notify the law enforcement office closest to the patient's and the victim's residence of the threat of violence. If the patient has communicated to the qualified mental health professional or person serving in a counselor role an actual threat of some specific violent act and no particular victim is identifiable, the duty to warn has been discharged if reasonable efforts are made to communicate the threat to law enforcement authorities. The duty to take reasonable precautions to provide protection from violent behavior shall be satisfied if reasonable efforts are made to seek civil commitment of the child under KRS Chapter 645.

(3) No monetary liability and no cause of action shall arise against any qualified mental health professional or person serving in a counselor role for confidences disclosed to third parties in an effort to discharge a duty arising under this section.

Section 129. KRS 645.990 is amended to read as follows:

Any person who *intentionally* [~~willfully~~] causes[~~, or conspires with or assists another in causing:~~

~~(1)~~] the unwarranted hospitalization of any individual under this chapter[~~;~~] or [~~(2)~~] the denial to any individual of any of the rights accorded to him under this chapter or the administrative regulations issued thereunder shall be guilty of a Class A misdemeanor.

Section 130. KRS 15A.200 is amended to read as follows:

As used in KRS 15A.210 to 15A.240 *and* [~~,~~] 15A.990*:* [~~,~~]

(1) "Certified juvenile holding facility staff" means individuals who meet the qualifications of, and who have completed a course of education and training developed and approved by, the justice cabinet after consultation with the cabinet for human resources and other appropriate state agencies;

(2) "Intermittent holding facility" means a physically secure setting, which is entirely separated from sight and sound from all other portions of a jail containing adult prisoners, in which children are supervised and observed on a regular basis;

(3) "Juvenile holding facility" means a physically secure setting, approved by the corrections cabinet, which is an entirely separate facility or portion or wing of a jail containing adult prisoners, to which access cannot be gained from the adult section of the jail and which is exclusively staffed by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision; and

(4) "*Secure* juvenile detention *facility* [~~center~~]" means any facility used for the secure detention of children other than a jail, police station, lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined.

Section 131. KRS 15A.210 is amended to read as follows:

[~~On or before July 1, 1987,~~] The justice cabinet shall issue *and enforce* administrative regulations to govern at least the following aspects of the operation of *secure* juvenile detention *facilities* [~~centers~~]:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Residents' rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 132. KRS 15A.220 is amended to read as follows:

(1) On or before July 1, 1988, each person or organization operating a *secure* juvenile detention *facility* [~~center~~] shall register with the justice cabinet and shall comply with the regulations issued pursuant to KRS 15A.210.

(2) After July 1, 1988, each organization operating or seeking to operate a *secure* juvenile detention *facility* [~~center~~] shall:

(a) Apply to the justice cabinet *in a period of time set by regulation* [~~not less than sixty (60) days~~] prior to the scheduled opening of the *secure juvenile detention* facility;

(b) Permit inspection of the *secure juvenile detention* facility by the justice cabinet not less than thirty (30) days prior to the scheduled opening of the *secure juvenile detention* facility; and

(c) Supply to the justice cabinet not less than thirty (30) days prior to the scheduled opening of the *secure juvenile detention* facility all data, plans, and other materials required by the justice cabinet.

(3) No secure juvenile detention facility shall operate after July 1, 1988, except with the approval of the justice cabinet.

Section 133. KRS 15A.230 is amended to read as follows:

(1) After July 1, 1988, the justice cabinet shall inspect, at least annually, each registered *secure* juvenile detention *facility* [~~center~~] to assure its compliance with administrative regulations; and

(2) After July 1, 1988, the justice cabinet may require reports and other data at least annually from each *secure* juvenile detention *facility* [~~center~~].

Section 134. KRS 15A.260 is amended to read as follows:

Moneys in the local alternatives to detention fund shall be utilized only for demonstration programs administered *or contracted for* by a county and shall be limited to programs whose purpose is to:

(1) Provide an alternative to placing juveniles in jails, *intermittent holding facilities, juvenile holding facilities,* or *secure* juvenile detention *facilities* [~~centers~~];

(2) *Hold* [~~Detain~~] juveniles for no more than seventy-two (72) hours in *juvenile holding* [~~intermittent~~] facilities prior to their disposition under KRS Chapters 620, 630, 635, and 645; or

(3) Provide transportation of juveniles to and from alternatives-to-detention programs, intermittent holding facilities, *secure* juvenile detention *facilities, juvenile holding facilities,* [~~centers~~] and court *appearances* [~~appearings~~].

Section 135. KRS 15A.270 is amended to read as follows:

The justice cabinet shall issue *and enforce* administrative regulations to govern at least the following aspects of the operation of the local alternatives-to-detention fund:

(1) Application procedures, including granting and denying applications;

(2) Program and funding restrictions;

(3) Program and funding reports;

(4) Termination of programs; and

(5) Other related matters.

Section 136. KRS 15A.990 is amended to read as follows:

Any person who *intentionally* violates the provisions of KRS 15A.210 to 15A.230 or the administrative regulations issued thereunder shall be fined not less than five hundred dollars ($500) nor more than ten thousand dollars ($10,000). Each day of violation shall be a separate offense.

Section 137. KRS 67.0831 is amended to read as follows:

(1) The fiscal court of each county shall provide for a suitable facility or facilities for the custody and care of children held in custody pending disposition of their cases by the district court, and may employ necessary personnel for the operation thereof.

(2) [~~In counties containing a city of the first or second class or urban-county government,~~] The fiscal court or urban-county council shall maintain a *secure juvenile* [~~permanent~~] detention *facility or a juvenile holding facility* [~~home~~], either through *contract* [~~arrangement~~] with another public agency or with a private organization or agency, or by acquiring and operating the *secure juvenile detention facility or juvenile holding facility* [~~home~~] as a county institution.

(3) [~~In counties other than those containing a city of the first or second class, the fiscal court shall either~~

~~maintain a detention home or arrange for the use of private or family homes.~~

~~(4)~~] Each child detained in *a secure juvenile detention* [~~such~~] facility *or a juvenile holding facility* shall be deemed to be under the jurisdiction of the district court before which his case is pending.

Section 138. KRS 194.360 is amended to read as follows:

The cabinet shall make an annual report to the governor, the general assembly, and the chief justice. The report shall be tendered to the above-named parties not later than December 1st of each year and shall include information for the previous fiscal year. The report shall include, but need not be limited to, the following information on children within the purview of the cabinet:

(1) The number of committed children in foster care;

(2) The number of committed children placed in private child care facilities;

(3) The amount of funds expended by federal and state governments for social worker and administrative salaries, maintenance payments to foster parents, medical care, counseling services, and other supportive services required to maintain children in foster homes;

(4) The amount of funds expended by federal and state governments for social worker and administrative salaries, payments to private child care facilities, medical care, counseling services, and other supportive services required to maintain children in private child care facilities;

(5) The amount of funds expended by federal and state governments for social worker and administrative salaries on protective services to children placed with their *biological* [~~natural~~] parents, or persons exercising custodial control or supervision of the child;

(6) The amount of funds expended by federal and state governments for social worker and administrative salaries on rehabilitative services provided to biological parents while the child has been placed in foster care;

(7) The number of foster children eligible for adoption, the number of such children adopted, and the number of foster children determined not eligible for adoption and the reasons therefor;

(8) The number of foster children placed in permanent or long-term foster care;

(9) The average length of time each child spends in foster care; and

(10) Any other matters relating to the care of foster children which the cabinet deems appropriate and which may promote further understanding of the impediments to providing permanent homes for foster children.

Section 139. KRS 199.645 is amended to read as follows:

The cabinet for human resources shall issue *and enforce* administrative regulations specifically addressing the unique situation of child-caring facilities and child-placing agencies which provide non-secure care for children during the pre-adjudication phase of proceedings under KRS Chapter *630 and 635* [~~199~~]. Such facilities and agencies shall include those operated privately and those operated by units of local government. These regulations shall include standards relating to the following:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Resident rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 140. KRS 189A.030 is amended to read as follows:

(1) Terms of imprisonment for first and second offenders under KRS 189A.010 shall, at the order of the court, be served on weekends or such other times as may preserve the employment or education of the offender, provided that no individual period of incarceration shall be less than twenty-four (24) hours.

(2) *Children shall be detained pursuant to the applicable provisions of KRS Chapters 600 to 645* [~~Terms of imprisonment for persons under the age of eighteen (18) shall be served in a location meeting the criteria of KRS Chapters 610, 630, 635 and 640~~].

SECTION 141. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

On or before July 1, 1988, the corrections cabinet shall issue and enforce administrative regulations to govern at least the following aspects of the operation of juvenile holding facilities:

(1) Administration;

(2) Personnel;

(3) Training and staff development;

(4) Recordkeeping;

(5) Physical plant;

(6) Security and control;

(7) Safety and emergency procedures;

(8) Sanitation and hygiene;

(9) Medical and health services;

(10) Food services;

(11) Intake and classification;

(12) Programs and services;

(13) Residents' rights;

(14) Rules and discipline;

(15) Admission procedures;

(16) Communication, including mail, visitation, and telephone;

(17) Release preparation and transfer programs; and

(18) Volunteer involvement.

Section 142. KRS 605.090 is amended to read as follows:

(1) Any child committed to the cabinet may by the decision of the cabinet or its designee, at any time during the period of his commitment, be:

(a) Upon fourteen (14) days prior written notice to the court, discharged from commitment. Written notice of discharge must be given to the committing court and to any other parties as may be required by law;

(b) Placed in the home of his parents, or in a suitable foster home, family home or boarding home, upon such conditions as the cabinet may prescribe and subject to visitation and supervision by a family service worker. *At the time a committed child is placed in the home of his parents by the cabinet, the parents shall be informed in writing of the conditions of the placement and the criteria that will be used to determine whether removal is necessary;*

(c) Placed in one (1) of the facilities or programs operated by the cabinet, except that no child committed under the provisions of KRS 610.010(1)(b), (c) or (d) or any child ten (10) years of age or under shall be placed in an institution operated by the cabinet for children committed to the cabinet as delinquents;

(d) Placed in a child-caring institution operated by a local governmental unit or by a private organization willing to receive the child, upon such conditions as the cabinet may prescribe;

(e) Treated as provided in KRS Chapter 645;

(f) Following the transfer or placement of a child pursuant to subsections (b), (c), (d), or (e) of this section the cabinet shall, within fourteen (14) days (weekends and holidays, excluded) give written notice to the court of the transfer, the placement, and the reasons therefor.

(2) *If a child committed to the cabinet as dependent, neglected or abused is placed in the home of his parents, the child shall not be removed except in accordance with the following standards and procedures:*

(a) If the family service worker believes that the committed child continues to be dependent, neglected or abused, but immediate removal is unnecessary to protect the child from imminent death or serious physical

injury, the casework situation and evidence shall be reviewed with his supervisor to determine whether to continue work with the family intact or to remove the child. There shall be documentation that the family service worker, prior to the court hearing, made an effort to contact the parents to inform them of the specific problems that could lead to removal so they have an opportunity to take corrective action. If the parents are unavailable or do not respond to attempts to communicate the specific circumstances shall be documented;

(b) If it appears that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm and there is not reasonably available an alternative less drastic than removal of the child from the home, the cabinet shall petition the district court to review the commitment pursuant to KRS 610.120 in relation to the cabinet's intention to remove the child from the parent's home. The petition shall set forth the facts which constitute the need for removal of the child. The court shall serve notice of the petition and the time and place of the hearing on the parents; however, the family service worker shall also contact the parents to ensure that they received the notice and are aware of the right to be represented by counsel. If the parents' whereabouts are unknown, notice may be mailed to the last known address of an adult who is a near relative. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall not be removed from the parents' home;

(c) If a family service worker finds a committed, unattended child who is too young to take care of himself, the family service worker shall make reasonable efforts to arrange for an emergency caretaker in the child's home until the parents return or fail to return within a reasonable time. If no in-home caretaker is available for the child, the family service worker shall request any appropriate law enforcement officer to take the child into protective custody. If, after a reasonable time, it appears the child has been abandoned, the cabinet shall petition the district court to review the case;

(d) If there exist reasonable grounds to believe that the child is in danger of imminent death or serious physical injury or is being sexually abused and that the parents are unable or unwilling to protect the child, the family service worker may immediately remove the child prior to filing a petition for review. Within seventy-two (72) hours after the removal, the cabinet shall file a petition for review in district court pursuant to KRS 610.120 with a request for an expeditious hearing. If the court fails to find that the child's health or welfare or physical, mental or emotional condition is subjected to or threatened with real and substantial harm, or recommends a less drastic alternative that is reasonably available, the child shall be returned to the parents' home.

(3) The cabinet shall notify the juvenile court of the county of placement with the conditions of supervised placement of each child placed in that county from one (1) of the residential treatment facilities operated by the cabinet. Notice of the conditions of such placement may be made available by the court to any law enforcement agency.

(4)[~~(3)~~] The person in charge of any home to which a child is probated, and the governing authority of any private institution or agency to which a child is committed, shall make such reports to the court as the court may require, and such reports as the cabinet may require in the performance of its functions under the law. The cabinet shall have the power to make such visitations and inspections of the homes, institutions and agencies in which children who have committed public offenses have been placed as it deems necessary to carry out its functions under the law.

(5)[~~(4)~~] The cabinet may assist the courts in placing children who have committed public offenses in family homes or boarding homes, and, under agreements with the individual courts, may assume responsibility for making such placements. Counties may pay or contribute towards the expenses of maintaining such children in family homes or boarding homes and, to the extent authorized by the fiscal court, the cabinet may incur obligations chargeable to the county for such expenses.

Section 143. The following KRS sections are repealed:

610.140 Appeals in dependency cases;

610.210 Peace officer may take child to court-approved custody center;

610.230 Detaining children in jails;

610.240 Detention longer than specified time;

610.260 Court options when detention exceeds specified time limits;

610.270 Failure to release to parent or other adult;

625.010 Definitions;

625.030 Putative father party to proceedings;

635.030 Dismissal of proceedings;

645.160 Rights of hospitalized child.

Section 144. Whereas, in order to properly protect children and to make the implementation of the Kentucky Unified Juvenile Code more efficient and just, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the governor.

The Committee on Appropriations and Revenue reported **HB 665** with Committee Amendment attached thereto, **HB 856** with Committee Amendments attached thereto, and **HB 917** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 665. AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any other taxes, every motor carrier operating a motor vehicle in this state with a combined licensed weight in excess of fifty-nine thousand nine hundred ninety-nine (59,999) pounds, shall pay two cents (2) per gallon on the amount of gasoline or special fuels used in its operation on the public highways in this state.

(2) For the purpose of this section the combined licensed weight of a motor vehicle shall be as defined in KRS 138.655.

SECTION 2. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The transportation cabinet may enter into motor fuels tax agreements on behalf of the Commonwealth with authorized representatives of other jurisdictions providing for the collection, refund, or audit of interstate motor fuel taxes. Copies of any and all agreements shall be maintained by the secretary of the cabinet.

Section 3. KRS 138.655 is amended to read as follows:

As used in KRS 138.660 to 138.725 and 138.990(17) and (18), unless the context requires otherwise:

(1) "Cabinet" means the transportation cabinet;

(2) "Person" includes every natural person, fiduciary, association, state or political subdivision, or corporation. Whenever used in any clause describing and imposing imprisonment the term "person" as applied to an association means and includes the partners or members thereof, and as applied to a corporation the officers thereof;

(3) "Public highway" means every way or place generally open to the use of the public as a matter of right for the purpose of vehicular travel notwithstanding that it may be temporarily closed or travel thereon restricted for the purpose of construction, maintenance, repair or reconstruction; also including all city streets, alleys and any way or place on which a toll is charged for using such way or place;

(4) "Motor vehicle" means any vehicle, machine or mechanical contrivance propelled by an internal combustion engine and licensed for operation and operated upon the public highways and any trailer or semitrailer attached to or having its front end supported by such motor vehicle;

(5) "Motor carrier" means every person who operates or causes to be operated on any highway in this state, any bus engaged in hauling passengers for hire operating under a certificate of convenience and necessity and any commercial truck or commercial tractor-trailer combination having a total of three (3) or more axles and a declared gross weight above twenty-six thousand (26,000) pounds. The number of axles referred to herein shall include not only those axles on the power unit but if a tractor-trailer combination is involved, also those axles on the trailer or semitrailer:

(a) "Axle" as referred to herein means any two (2) or more load-carrying wheels mounted in a single transverse vertical plane;

(b) "Trailers and semitrailers" are those as defined in subsections (1) and (2) of KRS 186.650, except that it does not include those trailers defined in subsections (3) and (4) of KRS 186.650 and those exempted from regulation under KRS 186.675. The term "motor carrier" shall not mean or shall not include any person operating or causing to be operated a city bus except city buses operated across the border of the state of Kentucky;

(c) "Commercial" refers to any activity for business purposes;

(d) For the purposes of KRS 138.660*(3) and* (4), *and Section 1 of this Act* motor carriers, trailers and semitrailers shall not mean a farm vehicle as defined in KRS 186.050(4);

(6) "City bus" means any motor vehicle used for the transportation of persons for hire exclusively within the limits of any city or within ten (10) miles of its limits over a regular route and exclusively within the boundaries of this state;

(7) "Heavy equipment motor carrier" means any person who operates on the public highways of this state as a "motor carrier" as defined in subsection (5) of this section, except that it shall not include motor vehicles used to transport persons for hire;

(8) "Trip permit" means a permit for the operating during a ten (10) consecutive day period of any motor vehicle of any "heavy equipment motor carrier" not licensed under KRS 138.665;

(9) "Licensee" means for purposes of KRS 138.660 to 138.725 any person who has been granted a license as a "motor carrier" or a "heavy equipment motor carrier," or any motor vehicle in which a valid trip permit is carried;

(10) "Use" means the consumption of gasoline and special fuels in propelling motor vehicles on the public highways;

(11) "Gasoline" means gasoline as defined in KRS 138.210 (4);

(12) "Special fuels" means and includes all combustible gases and liquids used for the generation of power in an internal combustion engine to propel vehicles of any kind upon the public highways, except that it does not include gasoline as defined in KRS 138.210 (4);

(13) "Quarterly" for the purposes of KRS 138.660 to 138.725 means a three (3) month period ending June 30 in the year 1956 and each succeeding three (3) month period thereafter;

(14) "Combined licensed weight" shall mean the greater of:

(a) The declared combined maximum gross weight of the vehicle and any towed unit for registration purposes for the current registration period; or

(b) The highest actual combined gross weight of the vehicle and any towed unit when operated on the public highways of the state during the current registration period.

Section 4. KRS 138.660 is amended to read as follows:

(1) Every motor carrier, excluding charter bus operators registered pursuant to KRS Chapter 281, shall pay a tax at the rate levied in KRS 138.220(1) and (2) on the amount of gasoline and at the rate levied in KRS 138.565 on the amount of special fuels used in operations on the public highways of this state.

(2) In addition to the tax imposed in subsection (1) of this section, if the motor carrier is a heavy equipment motor carrier as defined in KRS 138.655, he shall pay a surtax at the rate of two percent (2%) of the average wholesale price as provided in subsection (1) of this section, on the amount of gasoline and at the rate of four and seven-tenths percent (4.7%) on the amount of special fuels used in operations on public highways of this state.

(3) *Every motor carrier shall pay for every motor vehicle operated upon the public highways of this state with a combined licensed weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds a weight distance tax computed at the rate of three and eighty-five hundredths (3.85) cents per mile.*

(4) In addition to those taxes imposed hereinabove, every motor carrier shall pay for every motor vehicle operated upon the public highways of this state with a combined licensed weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds an additional weight distance tax of one and fifteen hundredths (1.15) cents per mile for the period beginning on April 1, 1988 and ending on March 31, 1993.

(5) Those taxes [~~The tax~~] levied under [~~subsections (1), and (2) of~~] this section shall be computed and paid as provided in KRS *138.685 and* 138.690.

[~~(4) (a) In addition to the tax imposed in subsection (1) of this section, there shall be paid for every vehicle with a combined license weight in excess of fifty-nine thousand nine hundred and ninety-nine (59,999) pounds an annual supplemental highway users' tax;~~

~~(b) The annual supplemental highway users' tax shall be based upon estimated miles to be traveled by a vehicle in the Commonwealth for the succeeding year, using the total actual miles traveled from February 1 to January 31 of the preceding year. If no actual miles were traveled in the Commonwealth for the preceding year, the estimate shall be based upon reasonable expectations of miles to be traveled for the coming year. The annual supplemental highway users' tax shall be based upon the following schedule:~~

Annual Mileage Class	User Fee
Less than 10,000 miles	$150
10,000 - 19,999	160
20,000 - 29,999	170
30,000 - 39,999	180
40,000 and over	200

(c) The supplemental highway users' tax shall be paid prior to February 1, of each year;

(d) The tax imposed under this section is in addition to any other taxes or registration fees imposed on motor carriers; and

(e) All funds collected from the tax provided in this section plus any interest and penalties imposed with respect to the fee shall be classified as road funds.

(5) (a) The secretary of the transportation cabinet shall issue a supplemental highway users' tax decal to a motor vehicle for which application has been made, and for which the fee as set forth in subsection (4)(b) has been paid. A decal shall be effective from February 1 of each year through January 31 of the following year. Application for a supplemental highway users' tax decal shall be made in a manner prescribed by the secretary;

(b) Every motor carrier shall affix the supplemental highway users' decal to the motor vehicle in the manner prescribed by the secretary of the transportation cabinet. The decal may be used or displayed only on the vehicle for which it was issued; and

(c) The secretary of the transportation cabinet may issue a temporary fee permit to a vehicle for which application for a temporary permit has been made and for which a fee of fifty dollars ($50) has been paid as is required by the secretary. The temporary fee permit shall be valid for a ten (10) consecutive day period and shall be in lieu of the payment of the supplemental highway users' tax as provided in subsection (4)(b) of this section.

(6) In the event the actual mileage traveled by a motor vehicle for the first fiscal year exceeds the estimate for that vehicle made pursuant to subsection (4)(b) of this section, the vehicle shall pay an additional users' tax according to the actual miles traveled. Any additional annual supplemental highway users' tax required under this section shall be paid on or before July 31 of the following fiscal year.

(7) The secretary may impound any motor vehicle subject to the provision of KRS 138.685 for which a tax payment decal has not been purchased or is not properly displayed. The secretary may retain possession of the vehicle until the motor vehicle is in full compliance with the provisions of this section and all costs incurred in connection with the impoundment and storage of the vehicle have been paid by the motor carrier.]

Section 5. KRS 138.665 is amended to read as follows:

(1) *(a)* A license shall be required of each motor carrier or heavy equipment motor carrier subject to the provisions of KRS 138.660 *and Section 1 of this Act* [~~(1) and (2),~~] before he uses or continues to use the public highways of this state.

(b) Notwithstanding the requirement in subsection (1), [~~except~~] the cabinet may issue a trip permit for each motor vehicle *subject to KRS 138.660(1)* for a fee of twenty dollars ($20) for each permit. *If the vehicle is subject to those taxes in KRS 138.660(1) to (4) and Section 1 of this Act, the cabinet may issue a trip permit for each motor vehicle for a fee of forty dollars ($40) for each permit.*

(2) Application for a license or trip permit shall be made to the cabinet and shall contain such information as the cabinet deems necessary.

(3) Concurrently with the filing of an application for a license, the motor carrier or heavy equipment motor carrier shall file with the cabinet a bond as required under KRS 138.670. No license shall be issued to any person unless such person has furnished a bond as provided in KRS 138.670 to secure payment of taxes, penalties and interest imposed by KRS 138.660 to 138.725.

(4) The application in proper form having been accepted for filing, the bond having been accepted and approved and the other conditions and requirements of this section having been complied with, the cabinet shall issue a license. However, if an application for a license is filed by any person whose license has at any time previously been revoked for cause by the cabinet, or if the cabinet is of the opinion that the person who makes the application does so as a subterfuge for the real party in interest whose license, prior to the time of filing the application, has been revoked for cause, or that the application is not for any other reason filed in good faith or is not sufficient cause, the cabinet may, after a hearing of which the applicant shall be given ten (10) days' notice in writing and in which he shall have the right to appear in person or by counsel and present testimony, refuse to issue a license to that person.

(5) All licenses shall be valid and remain in full force and effect until suspended or revoked for cause or otherwise canceled.

(6) A license shall not be assignable or transferable and shall be valid only for the person in whose name it is issued.

(7) The cabinet shall keep and file all applications and bonds, with an alphabetical index thereof.

(8) Each holder of such license shall display such license number or other identification in the manner prescribed by the cabinet.

(9) The provisions of this section shall not apply to a nonresident motor carrier engaged in transporting passengers for hire in irregular route interstate charter or special operations, provided reciprocal privileges are granted to similar nonresident carriers by the laws and regulations of his state.

Section 6. KRS 138.680 is amended to read as follows:

(1) Every licensee shall maintain complete records on all motor vehicles, by type, operating on Kentucky highways, weight and number of axles, mileage records and records of all purchases, use, and other dispositions of gasoline and special fuels. Such records, together with manifests of lading, invoices and other papers pertaining to gasoline or special fuels consumption, shall be retained for a *period of five (5) years, and shall be made available to the transportation cabinet upon request for examination* [~~minimum period of two (2) years; and if requested by the department shall be made available for examination by the department~~].

(2) If any licensee fails or refuses upon written request to furnish any information to the transportation cabinet concerning an audit, assessment, or verification of tax information, the cabinet may make an estimate of the licensee's tax due, and issue an assessment against the licensee based upon the estimated tax due. Such assessment may be used by the cabinet in any legal proceeding for collection of the tax. The cabinet may at any subsequent proceeding require the taxpayer to file any reports or additional information it deems necessary.

Section 7. KRS 138.685 is amended to read as follows:

(1) Every licensee shall file with the cabinet, on forms prescribed by the cabinet, a quarterly tax return. The return shall be made under penalty of perjury and shall show such information as the department may require. The licensee shall file the return on or before the last day of the next succeeding calendar month following the quarterly period to which it relates.

(2) The quarterly tax return shall be accompanied by a remittance covering the tax due.

[~~(3) Every person subject to the provision of KRS 138.660(4) shall be responsible for the correction, if necessary, of the estimated mileage traveled within the Commonwealth for the preceding year as required by KRS 138.660(6). The statement of the actual mileage traveled by a motor vehicle for the fiscal year which exceeds the estimate for that vehicle shall be made on or before the thirty-first day following the end of the fiscal year.~~

~~(4) The statement of actual mileage traveled by a motor vehicle exceeding the estimate for that vehicle shall be accompanied by the additional users' tax consistent with the actual mileage traveled.~~]

Section 8. KRS 138.690 is amended to read as follows:

(1) Those taxes [~~The tax~~] imposed by subsections (1) and (2) of KRS 138.660 *and Section 1 of this Act* shall be determined as follows: The total number of gallons of gasoline and special fuels used during the taxable period in the licensee's operations on the public highways in Kentucky shall be multiplied by the tax rate.

(2) Those taxes imposed by KRS 138.660(3) and (4) shall be determined as follows: the total number of miles driven during the taxable period in the licensee's operations on public highways in this state shall be multiplied by the combined licensed weight tax rate.

Section 9. KRS 138.715 is amended to read as follows:

(1) If any licensee neglects or refuses to make the return or pay the tax at the time provided in KRS 138.685, a penalty of twenty percent (20%) of the tax and interest at the tax interest rate as defined in KRS 131.010(6) from the date when due shall be paid on the tax.

(2) If any licensee subject to the penalty provided in subsection (1) of this section submits to the cabinet in writing the reasons for failure to comply with KRS 138.660 to 138.725 and if the cabinet finds the reasons sufficient evidence or justifiable cause for modifying the penalty provided in subsection (1) of this section, it may modify the penalty enacted therein to five percent (5%) of the amount of the tax due and delinquent, provided the five percent (5%) penalty may be reduced to one percent (1%) if the violation is the first violation

by the taxpayer within the twelve (12) months.

(3) If the penalties provided by this section are collected by proceedings in court, an additional penalty of twenty percent (20%) shall be collected and distributed as is authorized by KRS 134.400 and 135.060. Whenever any licensee neglects or refuses to make and file any report for any calendar quarter as required by KRS 138.685, or files an incorrect or fraudulent report, the cabinet shall determine after an investigation the amount of the liability which the licensee has incurred under KRS 138.660 to 138.725 for any particular quarter and assess and collect the amount of tax and penalties due.

(4) Any licensee who fails to make any report required under the provisions of KRS 138.660 to 138.725 within the time allowed may be required to pay a penalty of fifty dollars ($50) to be assessed and collected in the manner provided for the assessment and collection of taxes, or may be proceeded against in a civil action instigated by the cabinet. In addition, such licensee may be compelled to make the required return.

(5) In any action for the collection of taxes due under KRS 138.660 to 138.725 and any penalties or interest imposed in connection therewith, an assessment by the cabinet of the amount of tax due and the interest or penalties due to the state shall constitute prima facie evidence of the claim of the state and the burden of proof shall be on the licensee to show that the assessment was incorrect or contrary to law.

[~~(6) Any person who operates a motor vehicle required by KRS 138.660(4) to pay an annual supplemental highway users' tax without having purchased or properly displayed a tax decal shall be subject to a fine of not less than two hundred and fifty dollars ($250.00) nor more than one thousand dollars ($1,000).~~]

Section 10. KRS 154.690 is amended to read as follows:

(1) The provisions of KRS Chapter 141 notwithstanding, gains from the sale of qualified property within a zone shall be exempt from state income taxes.

(2) The provisions of KRS Chapter 141 notwithstanding, all interest payments on loans made to qualified businesses or on mortgage loans on any property within a zone shall be exempt from all state taxes, provided that such loans were made after the zone was officially designated.

(3) The provisions of KRS Chapter 139 notwithstanding, building materials used in remodeling, rehabilitation or new construction in a zone and new and used equipment and machinery purchased by qualified businesses for use in the zone, certified by the purchaser to be used for these purposes, shall be exempt from sales and use tax.

(4) The provisions of KRS 138.460 notwithstanding, motor vehicles purchased and used by qualified businesses, *except for motor vehicles purchased by and utilized by a holder of a permit required pursuant to KRS 281.615 to operate as a U-Drive-It as defined in KRS 281.014,* shall be exempt from the motor vehicle usage tax. *In the event a motor vehicle is exempt at the time of its purchase pursuant to this subsection but subsequently such motor vehicle is utilized and operated as a U-Drive-It as defined in KRS 281.014, this exemption shall cease to exist and the qualified business shall pay the tax set forth in KRS 138.460 or as provided for in KRS 138.463.*

(5) The provisions of KRS Chapter 141 notwithstanding, for state tax purposes, qualified businesses may carry forward their net operating losses, including casualty losses, for so long as the zone in which they are located shall be designated.

(6) For the purposes of KRS 154.660 to 154.705, qualifying buildings and structures within a zone shall be eligible for the moratorium on property taxes provided by section 172B of the Constitution.

(7) The provisions of KRS Chapter 132 notwithstanding, any city, county or urban-county government may, by act of the governing body of appropriate jurisdiction, adopt, for the purposes of revenues received by such city, county or urban-county government, an annual ad valorem tax rate on qualified property within a zone of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value.

Section 11. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5.00), and for each sidecar attachment, three dollars ($3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	*882.00*[~~588.00~~]
62,001-73,280	*1,125.00*[~~750.00~~]
73,281-82,000	*1,260.00*[~~840.00~~]

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay *seventy-five percent (75%)* [~~forty percent (40%)~~] of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay *seventy-five percent (75%)* [~~forty percent (40%)~~] of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) [~~Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.~~

~~(11)~~] Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(11)[~~(12)~~] The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(12)[~~(13)~~] The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(13)[~~(14)~~] (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements [~~with other jurisdictions~~] for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

Section 12. KRS 189.270 is amended to read as follows:

(1) The department may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles and vehicles transporting microwave satellite television antennae or farm equipment, whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay *in addition to* a fee of *sixty dollars ($60.00)* [~~thirty dollars ($30.00)~~] for each overweight [~~or overdimension~~] permit[~~;~~] a fee of*: forty dollars ($40.00) for any vehicle with six (6) axles; fifty dollars ($50.00) for any vehicle with seven (7) axles; sixty dollars ($60.00) for any vehicle with eight (8) axles; seventy dollars ($70.00) for any vehicle with nine (9) or more axles. For an overdimension permit the applicant shall pay a fee of sixty dollars ($60.00), and in addition, a fee of thirty dollars ($30.00) for any permit authorizing the movement of a load having a width of from ten (10) to fourteen (14) feet, or fifty dollars ($50.00) for any permit authorizing the movement of a load having a width in excess of fourteen (14) feet;* twenty dollars ($20.00) for each single trip house trailer permit; a fee of eighty dollars ($80.00) for each annual house trailer, farm equipment or microwave antennae transporter permit; and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to

highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit.

Section 13. KRS 281.838 is amended to read as follows:

Any person who is a nonresident of the Commonwealth of Kentucky and who operates any motor vehicle as defined in subsection (2) of KRS 281.011 not entitled to exemption from the payment of the fees imposed by KRS 186.050 by reason of the terms of a reciprocal agreement existing between the Commonwealth of Kentucky and the state in which such vehicle is licensed, may, in lieu of the payment of the fees imposed by KRS 186.050, obtain from the bureau of vehicle regulation a temporary permit. Under regulations adopted by the bureau of vehicle regulation application for such a temporary permit shall be made and such permits shall be issued for a specified period not exceeding ten (10) days, and [~~each such permit shall be issued~~] for a specific vehicle [~~upon the payment of a fee of twenty-five dollars ($25.00) for each such permit~~]. *The fee for each permit shall be twenty-five ($25.00) dollars for any vehicle subject to the fees in KRS 186.050 for a vehicle and any towed unit with a declared gross weight of 55,000 lbs. or less; or forty dollars ($40.00) for any vehicle subject to the fees in KRS 186.050 for a vehicle and any towed unit with a declared gross weight of 55,001 lbs. or more.*

Section 14. Whereas, based upon recent court decisions severely impacting the state's road fund, an emergency is declared to exist and the provisions of Sections 1, 3, 4, 5, 8, and 13 of this Act shall become effective on April 1, 1988.

The Committee Amendment No. 1 to **HB 665** is as follows:

Amend printed copy of **HB 665** on page 6, line 19, by deleting the new, underscored period (.) and adding the following language, "*or ending on the last day of the month in which the receipts from the tax imposed under the provisions of this subsection have reached a cumulative total of sixty-three million dollars ($63,000,000), which ever is earlier*".

HB 856, AN ACT relating to revenue and taxation.

WHEREAS, it is the intent of the General Assembly in enacting a tax amnesty program, as provided by this Act, to improve compliance with state tax laws and to increase and accelerate collections of certain currently owed state taxes;

WHEREAS, the General Assembly finds and declares that a public purpose is served by the waiver of tax penalties, certain interest and criminal prosecution in return for the immediate reporting and payment of previously underreported, unreported, or certain unpaid tax liabilities;

WHEREAS, the benefits gained through this program include, among other things, increased collecting of certain currently owed taxes, permanently bringing into the tax system taxpayers who have been evading payment of tax, and providing an opportunity for taxpayers to satisfy tax obligations before stepped-up tax enforcement programs take effect; and

WHEREAS, it is further the intent of the General Assembly in enacting this Act that the tax amnesty program be a one-time occurrence which shall not be repeated in the future, since taxpayers' expectations of future amnesty programs could have a counterproductive effect on compliance today;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall be known as and may be cited as the "Kentucky Tax Amnesty Act."

(2) The revenue cabinet shall develop and administer a one-time tax amnesty program as provided in this Act.

(3) As used in this Act, unless the context requires otherwise:

(a) "Cabinet" means the revenue cabinet.

(b) "Taxpayer" means any individual, partnership, joint venture, association, corporation, receiver, trustee, guardian, executor, administrator, fiduciary, or any other entity of any kind subject to any tax set forth in subsection (4) of this section or any person required to collect any such tax under subsection (4) of this section.

(c) "Account receivable" means an amount of state tax, penalty or interest which has been recorded as due and entered in the account records of the cabinet, or which the taxpayer should reasonably expect to become due as a direct or indirect result of any pending or completed audit or investigation which the taxpayer knows is being conducted by any governmental taxing authority, federal, state or local.

(d) "Final, due and owing" means an assessment which has become final and is owed to the Commonwealth due to either the expiration of the taxpayer's appeal rights pursuant to KRS 131.110 or, if an assessment has been appealed to the board of tax appeals, the rendition of a final order by the board or by any court of this Commonwealth. For the purposes of this Act, assessments that have been appealed to the board of tax appeals shall be final, due and owing fifteen (15) days after the last unappealed or unappealable order sustaining the assessment or any part thereof has become final.

(4) Notwithstanding the provisions of any other law to the contrary, the tax amnesty program shall be conducted by the cabinet during the fiscal year ending June 30, 1989, for a period of not less than sixty (60) days nor more than one hundred and twenty (120) days and shall apply to all taxpayers owing taxes, penalties or interest administered by the cabinet under the provisions of KRS Chapters 131, 136, 137, 138, 139, 140, 141, 143, 143A, 224, 234, 243, 299, subtitles 3, 4 and 11 of Chapter 304 and omitted intangible property tax levied under Chapter 132. The program shall apply to tax liabilities for taxable periods ending or transactions occurring prior to December 1, 1987. Amnesty tax return forms shall be in a form prescribed by the cabinet.

SECTION 2. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) For any taxpayer who meets the requirements of Section 3 of this Act:

(a) For taxes which are owed as a result of the nonreporting or underreporting of tax liabilities or the nonpayment of any account receivable owed by an eligible taxpayer, the Commonwealth shall waive criminal prosecution and all civil penalties which may be assessed under any KRS Chapter enumerated in subsection (4) of Section 1 of this Act for the taxable years or periods for which tax amnesty is requested, plus one-half (1/2) of the interest as provided in subsection (1) of Section 4 of this Act.

(b) With the exception of instances in which the taxpayer and cabinet enter into an installment payment agreement authorized under subsection (3) of Section 3 of this Act, the failure to pay all taxes and interest as shown on the taxpayer's amnesty tax return shall invalidate any amnesty granted pursuant to this Act.

(2) This section shall not apply to any taxpayer who is on notice, written or otherwise, of a criminal investigation being conducted by an agency of the state or any political subdivision thereof or the United States, nor shall this section apply to any taxpayer who is the subject of any criminal litigation which is pending on the date of the taxpayer's application in any court of this state or the United States for nonpayment, delinquency, evasion or fraud in relation to any federal taxes or to any of the taxes to which this amnesty program is applicable. Also, this section shall not apply to any taxpayer who is required to remit installment payments pursuant to a valid payment agreement authorized by the cabinet any time prior to the tax amnesty period.

(3) No refund or credit shall be granted for any interest or penalty paid prior to the time the taxpayer requests amnesty pursuant to Section 3 of this Act.

(4) Unless the cabinet in its own discretion redetermines the amount of taxes and interest due, no refund

or credit shall be granted for any taxes or interest paid under the amnesty program.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of this Act shall apply to any eligible taxpayer who files an application for amnesty within the time prescribed by the cabinet and does the following:

(a) Files completed tax returns for all years or tax reporting periods for which returns have not previously been filed and files completed amended tax returns for all years or tax reporting periods for which the tax liability was underreported except in cases in which the tax liability has been established through audit.

(b) Pays in full the taxes due for the periods and taxes applied for at the time the amnesty tax returns are filed within the amnesty period and pays with the taxes the amount of interest due as provided under subsection (1) of Section 4 of this Act and pays the amount of any additional tax and interest owed within thirty (30) days of notification by the cabinet.

(c) Pays in full within the amnesty period all taxes previously assessed by the cabinet that are final, due and owing at the time the amnesty tax returns are filed and pays with the taxes the amount of interest due as provided under subsection (1) of Section 4 of this Act and pays within thirty (30) days of notification by the cabinet the amount of any additional interest owed.

(2) An eligible taxpayer may participate in the amnesty program whether or not the taxpayer is under audit, notwithstanding the fact that the amount due is included in a proposed assessment or an assessment, bill, notice, or demand for payment issued by the cabinet; and without regard to whether the amount due is subject to a pending administrative or judicial proceeding. An eligible taxpayer may participate in the amnesty program to the extent of the uncontested portion of any assessed liability. However, participation in the program shall be conditioned upon the taxpayer's agreement that the right to protest or initiate an administrative or judicial proceeding or to claim any refund of moneys paid under the program is barred with respect to the amounts paid with the amnesty returns.

(3) The cabinet may enter into an installment payment agreement in cases of severe hardship in lieu of the complete payment required under subsection (1) of this section. In such cases, twenty-five percent (25%) of the amount due shall be paid with the amnesty return with the balance to be paid in monthly installments not be exceed three (3) months. Failure of the taxpayer to make timely payments shall void the terms of the amnesty program. All such agreements and payments shall include interest as provided under subsection (2) of Section 4 of this Act.

(4) If, following the termination of the tax amnesty period, the cabinet issues a deficiency assessment based upon information independent of that shown on a return filed pursuant to subsection (1) of this section, the cabinet shall have the authority to impose penalties and criminal action may be brought where authorized by law only with respect to the difference between the amount shown on the amnesty tax return and the correct amount of tax due. The imposition of penalties or criminal action shall not invalidate any waiver granted under Section 2 of this Act. With the exception of the cost of collection fee imposed under subsection (1) of Section 7 of this Act, all assessments issued by the cabinet under this Act may be protested by the taxpayer in the same manner as other assessments pursuant to the terms of this chapter.

SECTION 4. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 131.183(1), all taxes paid with the amnesty tax return shall bear interest at one-half (1/2) of the variable tax interest rates applicable under KRS 131.183(1) or other applicable statutes. Any tax not previously assessed by the cabinet and due for taxable periods ending or transactions occurring prior to July 1, 1982 shall bear interest at the rate of four percent (4%) per annum.

(2) All installment agreements authorized under subsection (3) of Section 3 of this Act shall bear interest on the outstanding amount of tax due during the installment period at the full rate prescribed under KRS 131.183.

(3) Notwithstanding the provisions of KRS 131.183(2) and 141.235, if any overpayment of tax under this Act is refunded or credited within one hundred eighty (180) days after the return is filed, no interest shall be allowed.

SECTION 5. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate regulations as necessary, issue forms and instructions, and take all actions necessary to implement the provisions of this Act. The cabinet shall extensively publicize the tax amnesty program in order to maximize the public awareness of and participation in the program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

For purposes of accounting for the revenues received pursuant to this Act, the cabinet shall establish within the general fund a separate and distinct tax amnesty receipt account. Except as provided in subsection (4) of Section 7 of this Act, all receipts collected as a result of the amnesty program shall be paid into this account, and all transactions involving this account shall be accounted for and reported as such.

SECTION 7. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) In addition to all other penalties provided under this Act and any other law, there is hereby imposed after the expiration of the tax amnesty period a cost of collection fee of twenty percent (20%) on all taxes which are or become final, due and owing to the cabinet for any reporting period, regardless of when due. This fee shall be in addition to any other applicable fee provided in this subsection. Taxes which are assessed and collected after the amnesty period for taxable periods ending or transactions occurring prior to December 1, 1987, shall be charged a cost of collection fee of twenty percent (20%) at the time of assessment. For any taxpayer who failed to file a return for any previous tax period for which amnesty is available and fails to file the return during the amnesty period, the cost of collection fee shall be fifty percent (50%) of any tax deficiency assessed after the amnesty period. These fees shall be in addition to all other applicable penalties and shall not be discretionary. However, any taxes that cannot be paid under the amnesty program because of the exclusions in subsection (2) of Section 2 of this Act shall not be subject to these fees.

(2) The provisions of subsection (1) of this section shall not relate to any account which has been protested pursuant to KRS 131.110 as of the expiration of the amnesty period and which does not become final, due and owing, or to any account on which the taxpayer is remitting timely payments under a payment agreement negotiated with the cabinet prior to or during the amnesty period.

(3) The fee levied under subsection (1) of this section shall not apply to taxes paid pursuant to the terms of the amnesty program nor shall the judgment penalty of twenty percent (20%) levied under KRS 135.060(3) apply in any case in which the fee levied under this section is applicable.

SECTION 8. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) After the expiration of the tax amnesty period, the cabinet shall vigorously pursue all civil, administrative and criminal penalties authorized by law for all taxes found to be due the Commonwealth.

(2) Unless otherwise provided by law, the following civil and criminal penalties shall apply to the underpayment of all taxes administered by the cabinet:

(a) If any part of any deficiency is due to intentional disregard of statutes and regulations but without intent to defraud, five percent (5%) of the total amount of the deficiency, in addition to the deficiency and other penalties provided by law.

(b) If any part of any deficiency is due to fraud or intent to evade tax, fifty percent (50%) of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(3) In addition to all other penalties provided under this Act and any other law, any taxpayer who willfully fails to make a return or willfully makes a false return, or who willfully fails to pay taxes owing or collected, with intent to evade payment of the tax or amount collected, or any part thereof, shall be guilty of a Class D felony.

(4) Any person who willfully aids or assists in, or procures, counsels, or advises the preparation or presentation under, or in connection with any matter arising under any tax administered by the cabinet of a return, affidavit, claim, or other document, which is fraudulent or is false as to any material matter, whether

or not the falsity or fraud is with the knowledge or consent of the person authorized or required to present the return, affidavit, claim, or document shall be guilty of a Class D felony.

(5) A return for the purpose of this section shall mean and include any return, declaration or form prescribed by the cabinet and required to be filed with the cabinet, or required by the administrative regulations of the cabinet or by written request for information to the taxpayer by the cabinet.

SECTION 9. A NEW SECTION OF KRS CHAPTER 139 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any such person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. Taxes as used in this section shall include interest accrued thereon at the rate provided by KRS 139.650 and all applicable penalties imposed under this chapter and this Act.

SECTION 10. A NEW SECTION OF KRS CHAPTER 143 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any such person. The personal and individual liability shall apply to each and every person holding corporate office at the time the taxes become or became due. Taxes as used in this section include interest accrued thereon at the rate provided by KRS 143.080 and all applicable penalties imposed under this chapter and this Act.

Section 11. KRS 15.725 is amended to read as follows:

(1) The Commonwealth's attorney shall attend each circuit court held in his judicial circuit. He shall, except as provided in KRS 15.715 *and KRS Chapter 131,* have the duty to prosecute all violations of the criminal and penal laws which are to be tried in the circuit court in his judicial circuit. In addition, he shall have the primary responsibility within his judicial circuit to present evidence to the grand jury concerning such violations.

(2) The county attorney shall attend the district court in his county and prosecute all violations of criminal and penal laws, *except as provided in KRS Chapter 131,* within the jurisdiction of said district court.

(3) The Commonwealth's attorney and county attorneys in a judicial circuit shall cooperate in the enforcement of criminal and penal laws of the Commonwealth. When necessary, the Commonwealth's attorney and county attorney shall assist each other in prosecution within their respective courts.

(4) In the event of the absence from a county of all district judges and all circuit judges and all trial commissioners, the circuit clerk in each county may issue criminal warrants prepared by the Commonwealth's attorney or county attorney, who shall certify that there is no district judge, circuit judge or trial commissioner within the county.

Section 12. KRS 131.130 is amended to read as follows:

Without limitation of other duties assigned to it by law, the following powers and duties are vested in the [~~of~~] revenue cabinet:

(1) The cabinet may make rules and regulations, and direct proceedings and actions, for the administration and enforcement of all tax laws of this state.

(2) The cabinet, by representatives appointed by it in writing, may take testimony or depositions, and may examine the records, documents, files and equipment of any taxpayer or of any person whose records,

documents or equipment will furnish knowledge concerning the tax liability of any taxpayer, when it deems this reasonably necessary for purposes incident to the performance of its functions. The cabinet may enforce this right by application to the circuit court in the county wherein the person is domiciled or has his principal office, or by application to the Franklin Circuit Court, which courts may compel compliance with the orders of the cabinet.

(3) The cabinet shall prescribe the style, and determine and enforce the use or manner of keeping, of all assessment and tax forms and records employed by state and county officials, and may prescribe forms necessary for the administration of any revenue law.

(4) The cabinet shall advise on all questions respecting the construction of state revenue laws and the application thereof to various classes of taxpayers and property.

(5) *Attorneys employed by the cabinet and approved by the attorney general as provided in KRS 15.020 may attend the Franklin Circuit and District Courts and prosecute all violations of the criminal and penal laws relating to revenue and taxation. If a revenue cabinet attorney undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas and processes of any kind, and to appear before all grand juries, courts, or tribunals.*

(6) In the event of the incapacity of attorneys employed by the cabinet or at the request of the secretary of the revenue cabinet, the attorney general shall attend the Franklin Circuit and District Courts and prosecute all violations of the criminal and penal laws relating to revenue and taxation. If the attorney general undertakes any of the actions prescribed in this subsection, he shall be authorized to exercise all powers and perform all duties in respect to the criminal actions or proceedings which the prosecuting attorney would otherwise perform or exercise, including, but not limited to, the authority to sign, file, and present any and all complaints, affidavits, information, presentments, accusations, indictments, subpoenas and processes of any kind, and to appear before all grand juries, courts, or tribunals.

(7) The cabinet may require the Commonwealth's attorneys and county attorneys to prosecute actions and proceedings and perform other services incident to the enforcement of laws assigned to the cabinet for administration.

(8)[~~(6)~~] The cabinet may conduct research in the fields of taxation, finance and local government administration, and publish its findings, as the secretary may deem wise.

(9)[~~(7)~~] The cabinet may make rules and regulations necessary to establish a system of taxpayer identifying numbers for the purpose of securing proper identification of taxpayers subject to any tax laws or other revenue measure of this state, and may require such taxpayer to place on any return, report, statement or other document required to be filed, any number assigned pursuant to such rules and regulations.

Section 13. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky board of tax appeals made pursuant to KRS 131.350 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) [~~In addition to the civil liability for interest and penalty provided in KRS 131.180, any person who wilfully fails to file any tax report or return within the specified time, for which failure a specific criminal penalty is not provided, shall, for the first offense, be fined not more than five hundred dollars ($500) or imprisoned in the county jail for not more than six (6) months, or both. For any subsequent offense he shall be fined not more than one thousand dollars ($1,000) or imprisoned in the county jail for not more than twelve (12) months, or both.~~

~~(3)~~] Any person who violates any of the provisions of KRS 131.190, except subsection (4) thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and shall be disqualified and removed from office or employment. Any person who violates the provisions of KRS 131.190(4) shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years or both.

(3)[~~(4)~~] Any person who wilfully fails to comply with the rules and regulations promulgated by the revenue cabinet for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(4)[~~(5)~~] Any person who fails to do any act required or does any act forbidden by KRS 131.210 [~~or 131.220~~] shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

Section 14. KRS 131.220, Reporting and prosecution of tax law violators, is repealed.

The Committee Amendment No.1 to **HB 856** is as follows:

Amend printed copy of **HB 856** on page 12, line 5, by deleting the new, underscored language "*or is false*";

line 6, by deleting the new, underscorded language "*falsity or*".

The Committee Amendment No. 2 to **HB 856** is as follows:

Amend printed copy of **HB 856** on page 5, line 24, after the word "*periods*" insert "*as stated on the application*";

line 26, after the word "*periods*" insert "*as stated on the application*".

On page 6, line 4, before the word "*amnesty*" insert "*application or*";

line 12, before the word "*amnesty*" insert "*application or*".

On page 7, line 5, before the word "*amnesty*" insert "*application or*";

line 10, before the word "*amnesty*" insert "*application or*";

line 11, delete the word "*be*" after the word "*not*" and insert in lieu thereof the word "*to*".

On page 9, line 11, delete "*Except as provided in subsection (4) of*";

line 12, delete "*Section 7 of this Act, all*" and insert in lieu thereof the word "*All*".

On page 13, line 7, after the word "*and*" insert "*all applicable penalties and fees imposed under*";

line 25, after the word *and*" insert "*all applicable penalties and fees imposed under*".

On page 16, line 6, delete line 6 in its entirety;

line 21, after the word "*general*" insert "*or his designee*";

line 21, delete the word "*attend*";

line 22, delete "*the Franklin Circuit and District Courts and*".

HB 917, AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) On and after January 1, 1989, any person owning and engaged in the business of extracting or leasing mineral resources shall, as of January 1 each year, and by February 1, report to the revenue cabinet. The revenue cabinet shall compose standard forms for reporting mineral production and other information that bears on the value of mineral properties. Producers shall complete and file annually the appropriate forms for each of their properties.

(2) On and after January 1, 1988, the revenue cabinet shall determine the fair cash value of all mineral resources using all applicable standard valuation methods and taking into account all factors that influence value.

(3) When the valuation has been finally determined, the cabinet shall certify the valuation to the property valuation administrator who shall place the valuation upon the county assessment rolls and give notice to the property owner as provided in KRS 132.450.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

If any tract of mineral resources valued as barren or unminable property is prepared for extraction, that tract of mineral resources shall be subject to revaluation based on the current fair cash value of the tract; and the owner shall be liable for taxes based on the fair cash value for the two (2) years immediately preceding the year of revaluation but shall not be liable for deferred taxes for any year prior to the effective date of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Revenue produced pursuant to KRS 132.020(1) from the assessment and levy upon mineral resources shall be distributed as follows: for each of the fiscal years beginning July 1, 1988, and July 1, 1989, the lesser of the sum of one million dollars ($1,000,000) or the total revenue produced from the assessment and levy upon mineral resources for the year shall be transferred to the "restricted fund group" established by KRS 45.322(1)(e) for use by the revenue cabinet for the purpose of assessing mineral resources. Any revenue produced in excess of this amount shall be transferred to the "operating fund group" established by KRS 45.322(1)(a) for the general operations of state government.

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Beginning January 1, 1989, and each January 1 thereafter, the county clerk shall provide a list of all transfers of mineral resources for the prior year to the revenue cabinet by February 1 each year which shall include references to deed books and page numbers where the record of the transaction may be found.

Section 5. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the revenue cabinet.

(2) "Taxpayer" means any person, *corporation, company, partnership, association, or other legal entity* made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands, *mineral resources, oil, natural gas, and natural gas liquids* within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent

per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year. *The value of all mineral resources appearing on the tax rolls on or before December 31, 1991, shall be considered "real property additions" for each year such value appears on the tax rolls prior to that date. Beginning January 1, 1992, "real property additions" shall include the value of all mineral resources added to the tax rolls on or after that date for the year in which such value is added to the tax rolls.*

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten (10) contiguous acres in area used for the production of livestock,

livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

Acres	Annual Gross Income	Income Per Acre
10 to 30	$1,000	$60.00 per acre, or a fraction thereof, over 10 acres.
30 to 60	$2,200	$40.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$3,400	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$4,400	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$5,900	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

Acres	Annual Gross Income	Income Per Acre
5 to 30	$1,000 minimum, or	$100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater.
30 to 60	$3,000	$50.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$4,500	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$5,500	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$7,000	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering

the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(18) "Mineral resources" mean all forms of minerals which have not yet been mined or removed from the earth for which there exists a method of extraction in common usage in the particular industry and a commercial use for which the mined mineral could be devoted under available technologies, but excluding oil, natural gas and natural gas liquids.

(19) "Active mining property" means mineral resources on a parcel or tract of land actively being mined, or for which a permit to mine has been obtained from the Kentucky natural resources and environmental protection cabinet. Parcels under common ownership, control or lease shall be treated as one (1) parcel.

(20) "Active reserves" means the residual part of the mineral resources in excess of the acreage representing "active mining property", and under common ownership control or lease with the "active mining property", which corresponds to the number of acres which could reasonably be mined within ten (10) years.

(21) "Inactive reserves" means those seams of mineral resources owned, leased, or controlled by a taxpayer in the demonstrated business of leasing or extracting that particular type of mineral resource but which are not assignable as either "active mining property", "active reserves" or "barren or unminable" property and shall also mean mineral resources which have been severed from the surface estate by deed or conveyance and are not assignable as either "active mining property" or "active reserves." For purposes of this subsection, "taxpayer in the demonstrated business of leasing or extracting" shall mean a taxpayer who derives a substantial portion of his income from leasing or extracting that particular type of mineral resource.

(22) "Barren or unminable" property means those seams of mineral resources not being actively mined which have been depleted by prior mining operations or which underlie surface property used for parks, residential, commercial or industrial purposes, and not being actively mined, or from which mining is prohibited by law. In addition "barren or unminable" property means those seams of mineral resources which underlie surface tracts being devoted to agricultural or horticultural purposes, as defined in subsections (9) and (10) of this section, by the owner of the surface tracts if the mineral resources have not been severed from the surface estate by deed or conveyance and are not otherwise assignable as "active reserves" or "inactive reserves", so long as the mineral resources are neither being mined nor prepared for mining.

Section 6. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (31-1/2) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents (15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15) upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto; and

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) [~~Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars ($100) of assessed value.~~

~~(6)~~] Thirty cents (30) of the thirty-one and one-half cents (31-1/2) state tax rate on real property and thirty cents (30) of the forty-five cents (45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (30), as certified by the department of education, the direct payments shall be reduced proportionately.

(6)[~~(7)~~] The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7)[~~(8)~~] By July 1 each year, the revenue cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8)[~~(9)~~] In the event that the tax rate set by the cabinet as provided in subsection *(7)* [~~(8)~~] of this section produces more than a four percent (4%) increase in real property tax revenues, *exclusive of revenues produced prior to January 1, 1990, by application of the rate to mineral resources,* the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9)[~~(10)~~] An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

Calendar Year	Rate per $100 of Assessed Value
1982	$.225
1983	$.1125
1984 and after	$.001

(10)[~~(11)~~] Effective on or after January 1, 1986, an ad valorem tax for state purposes of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials and in-process materials held for incorporation in finished goods held for sale in the regular course of business.

(11)[~~(12)~~] An ad valorem tax for state purposes of one tenth of one-cent ($0.001) per one hundred dollars ($100) of assessed value shall be paid on all motor vehicles registered pursuant to the provisions of KRS 186.050(6).

Section 7. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1-1/2) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4-1/2) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) [~~On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;~~

~~(12)~~] On and after January 1, *1988* [~~1977~~], the assessed value of *all interests in mineral resources, as defined in KRS 132.010,* [~~unmined coal~~] shall be included in the formula contained in KRS 132.590(2) in determining the amount of county appropriation to the office of the property valuation administrator;

(12)[~~(13)~~] Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13)[~~(14)~~] Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale;

(14)[~~(15)~~] Motor vehicles registered pursuant to the provisions of KRS 186.050(6); and

(15)[~~(16)~~] Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.

Section 8. KRS 132.230 is amended to read as follows:

(1) Every person listing his property with the property valuation administrator shall state:

(a) Each separate tract of land, *any interest in mineral resources, oil, natural gas or natural gas liquids* with the number of acres in each tract; the value per acre; each of the improvements thereon; the name of the nearest resident thereto; where located, giving the election precinct in which it is located; the number of each city lot and the improvements thereon, in what city, on which street, the value of each, and the value of the improvements thereon to the extent that they enhance the value of each lot; whether there is any land adjoining his owned by a nonresident of the county or state, giving the name and place of residence of any such owner, if known;

(b) The number of livestock, their type, species and value;

(c) All other property including the number, denomination and fair cash value of all bonds subject to taxation owned by him with the value thereof on January 1 of the year for which the assessment is made, unless otherwise provided by law; and

(d) Such other facts as may be required in the blanks provided.

(2) An error or informality in the description or location of the property, or in the name of the owner or person assessed, shall not invalidate the assessment if the property can with reasonable certainty be located or identified from the description given, in which case the collector may receive the taxes and by his receipt correct the error or informality.

Section 9. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the revenue cabinet shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, cabinet or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, *including mineral resources,* and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the *surface of the* property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the district court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the revenue cabinet making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 10. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "Cabinet" means the revenue cabinet.

(3) "Taxpayer" means any person, *corporation, company, partnership, association, or other legal entity* made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands, *and mineral resources, oil, natural gas, and natural gas liquids* within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 12. Whereas it is imperative that all property be assessed as of January 1, 1988, an emergency is declared to exist and the provisions of this Act shall be effective on January 1, 1988.

The Committee Substitute to **HB 917** is as follows:

HB 917. AN ACT relating to revenue and taxation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) On and after January 1, 1989, any person owning and engaged in the business of extracting or leasing mineral resources shall, as of January 1 each year, and by February 1, report to the revenue cabinet. The revenue cabinet shall compose standard forms for reporting mineral production and other information that bears on the value of mineral properties. Producers shall complete and file annually the appropriate forms for each of their properties.

(2) On and after January 1, 1988, the revenue cabinet shall determine the fair cash value of all mineral resources using all applicable standard valuation methods and taking into account all factors that influence value.

(3) When the valuation has been finally determined, the cabinet shall certify the valuation to the property valuation administrator who shall place the valuation upon the county assessment rolls and give notice to the property owner as provided in KRS 132.450.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

If any tract of mineral resources valued as barren or unminable property is prepared for extraction, that tract of mineral resources shall be subject to revaluation based on the current fair cash value of the tract; and the owner shall be liable for taxes based on the fair cash value for the two (2) years immediately preceding the year of revaluation but shall not be liable for deferred taxes for any year prior to the effective date of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Revenue produced pursuant to KRS 132.020(1) from the assessment and levy upon mineral resources shall be distributed as follows: for each of the fiscal years beginning July 1, 1988, and July 1, 1989, the lesser of the sum of one million dollars ($1,000,000) or the total revenue produced from the assessment and levy upon mineral resources for the year shall be transferred to the "restricted fund group" established by KRS 45.322(1)(e) *for use by the revenue cabinet for the purpose of assessing mineral resources. Any revenue produced in excess of this amount shall be transferred to the "operating fund group" established by KRS 45.322(1)(a) for the general operations of state government.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Beginning January 1, 1989, and each January 1 thereafter, the county clerk shall provide a list of all transfers of mineral resources for the prior year to the revenue cabinet by February 1 each year which shall include references to deed books and page numbers where the record of the transaction may be found.

Section 5. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the revenue cabinet.

(2) "Taxpayer" means any person, *corporation, company, partnership, association, or other legal entity* made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands, *mineral resources, oil, natural gas, and natural gas liquids* within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; [~~and~~]

(i) The value of improvements to real property previously under assessment moratorium*; and*

(j) The value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

Acres	Annual Gross Income	Income Per Acre
10 to 30	$1,000	$60.00 per acre, or a fraction thereof, over 10 acres.
30 to 60	$2,200	$40.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$3,400	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$4,400	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$5,900	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

Acres	Annual Gross Income	Income Per Acre
5 to 30	$1,000 minimum,	or $100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater.
30 to 60	$3,000	$50.00 per acre, or a fraction thereof, over 30 acres.

60 to 100	$4,500	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$5,500	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$7,000	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(18) "Mineral resources" mean all forms of minerals which have not yet been mined or removed from the earth for which there exists a method of extraction in common usage in the particular industry and a commercial use for which the mined mineral could be devoted under available technologies, but excluding oil, natural gas and natural gas liquids.

(19) "Active mining property" means mineral resources on a parcel or tract of land actively being mined, or for which a permit to mine has been obtained from the Kentucky natural resources and environmental protection cabinet. Parcels under common ownership, control or lease shall be treated as one (1) parcel.

(20) "Active reserves" means the residual part of the mineral resources in excess of the acreage representing "active mining property", and under common ownership control or lease with the "active mining property", which corresponds to the number of acres which could reasonably be mined within ten (10) years.

(21) "Inactive reserves" means those seams of mineral resources owned, leased, or controlled by a taxpayer in the demonstrated business of leasing or extracting that particular type of mineral resource but which are not assignable as either "active mining property", "active reserves" or "barren or unminable" property and shall also mean mineral resources which have been severed from the surface estate by deed or conveyance and are not assignable as either "active mining property" or "active reserves." For purposes of this subsection, "taxpayer in the demonstrated business of leasing or extracting" shall mean a taxpayer who derives a substantial portion of his income from leasing or extracting that particular type of mineral resource.

(22) "Barren or unminable" property means those seams of mineral resources not being actively mined which have been depleted by prior mining operations or which underlie surface property used for parks, residential, commercial or industrial purposes, and not being actively mined, or from which mining is prohibited by law. In addition "barren or unminable" property means those seams of mineral resources which underlie surface tracts being devoted to agricultural or horticultural purposes, as defined in subsections (9) and (10) of this section, by the owner of the surface tracts if the mineral resources have not been severed from the surface estate by deed or conveyance and are not otherwise assignable as "active reserves" or "inactive reserves", so long as the mineral resources are neither being mined nor prepared for mining.

Section 6. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (31-1/2) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents (15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15) upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as

an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto; and

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) [~~Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars ($100) of assessed value.~~

~~(6)~~] Thirty cents (30) of the thirty-one and one-half cents (31-1/2) state tax rate on real property and thirty cents (30) of the forty-five cents (45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (30), as certified by the department of education, the direct payments shall be reduced proportionately.

(6)[~~(7)~~] The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property, *exclusive of new property,* to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7)[~~(8)~~] By July 1 each year, the revenue cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8)[~~(9)~~] In the event that the tax rate set by the cabinet as provided in subsection *(7)* [~~(8)~~] of this section produces more than a four percent (4%) increase in real property tax revenues, *exclusive of revenue from new property,* the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase, *exclusive of revenue from new property,* shall not exceed four percent (4%) per year.

(9)[~~(10)~~] An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

Calendar Year	Rate per $100 of Assessed Value
1982	$.225
1983	$.1125
1984 and after	$.001

(10)[~~(11)~~] Effective on or after January 1, 1986, an ad valorem tax for state purposes of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials and in-process materials held for incorporation in finished goods held for sale in the regular course of business.

(11)[~~(12)~~] An ad valorem tax for state purposes of one tenth of one-cent ($0.001) per one hundred dollars ($100) of assessed value shall be paid on all motor vehicles registered pursuant to the provisions of KRS 186.050(6).

Section 7. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1-1/2) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4-1/2) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) [~~On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;~~

~~(12)~~] On and after January 1, *1988* [~~1977~~], the assessed value of *all interests in mineral resources, as defined in KRS 132.010,* [~~unmined coal~~] shall be included in the formula contained in KRS 132.590*(7)*[~~(2)~~] in determining the amount of county appropriation to the office of the property valuation administrator;

(12)[~~(13)~~] Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13)[~~(14)~~] Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale;

(14)[~~(15)~~] Motor vehicles registered pursuant to the provisions of KRS 186.050(6); and

(15)[~~(16)~~] Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.

Section 8. KRS 132.230 is amended to read as follows:

(1) Every person listing his property with the property valuation administrator shall state:

(a) Each separate tract of land, *any interest in mineral resources, oil, natural gas or natural gas liquids* with the number of acres in each tract; the value per acre; each of the improvements thereon; the name of the nearest resident thereto; where located, giving the election precinct in which it is located; the number of each city lot and the improvements thereon, in what city, on which street, the value of each, and the value of the improvements thereon to the extent that they enhance the value of each lot; whether there is any land adjoining his owned by a nonresident of the county or state, giving the name and place of residence of any such owner, if known;

(b) The number of livestock, their type, species and value;

(c) All other property including the number, denomination and fair cash value of all bonds subject to taxation owned by him with the value thereof on January 1 of the year for which the assessment is made, unless otherwise provided by law; and

(d) Such other facts as may be required in the blanks provided.

(2) An error or informality in the description or location of the property, or in the name of the owner or person assessed, shall not invalidate the assessment if the property can with reasonable certainty be located or identified from the description given, in which case the collector may receive the taxes and by his receipt correct the error or informality.

Section 9. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the revenue cabinet shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, cabinet or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall thereupon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, *including mineral resources,* and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the *surface of the* property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the district court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the revenue cabinet making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 10. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "Cabinet" means the revenue cabinet.

(3) "Taxpayer" means any person, *corporation, company, partnership, association, or other legal entity* made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands, *and mineral resources, oil, natural gas, and natural gas liquids* within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 11. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

Section 12. Whereas it is imperative that all property be assessed as of January 1, 1988, an emergency is declared to exist and the provisions of this Act shall be effective on January 1, 1988.

The Committee on State Government reported **HB 1**, **HB 228** with Committee Amendment attached thereto, and **HB 630** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 1, AN ACT proposing to amend the Constitution of Kentucky relating to lotteries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 226 of the Constitution of Kentucky be amended to read as follows:

(1) The General Assembly may establish a Kentucky state lottery and may establish a state lottery to be conducted in cooperation with other states. Any lottery so established shall be operated by or on behalf of the Commonwealth of Kentucky.

(2) Except as provided in this section, lotteries and gift enterprises are forbidden, and no privileges shall be granted for such purposes, and none shall be exercised, and no schemes for similar purposes shall be allowed. The General Assembly shall enforce this section by proper penalties. All lottery privileges or charters heretofore granted are revoked.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 228, AN ACT proposing an amendment to Section 19 of the Constitution of Kentucky relating to contracts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 19 of the Constitution of Kentucky be amended to read as follows:

(1) No ex post facto law, nor any law impairing the obligation of contracts, shall be enacted.

(2) In any instrument heretofore or hereafter executed purporting to sever the surface and mineral estates or to grant a mineral estate or to grant a right to extract minerals, which fails to state or describe in express and specific terms the method of coal extraction to be employed, or where said instrument contains language subordinating the surface estate to the mineral estate, it shall be held, in the absence of clear and convincing

evidence to the contrary, that the intention of the parties to the instrument was that the coal be extracted only by the method or methods of commercial coal extraction commonly known to be in use in Kentucky in the area affected at the time the instrument was executed, and that the mineral estate be dominant to the surface estate only for the purposes of coal extraction by the method or methods of commercial coal extraction commonly known to be in use in Kentucky in the area affected at the time the instrument was executed.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Amendment No. 1 to **HB 228** is as follows:

Amend printed copy of **HB 228** on page 1, line 19, by deleting the word "*only*";

And on page 1, line 19, following the word "*extraction*" by inserting "*only*".

HB 630, AN ACT proposing to amend Sections 71, 82, and 93 of the Constitution of Kentucky relating to terms of elected officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 71 of the Constitution of Kentucky be amended to read as follows:

The Governor shall be eligible to election for two (2) consecutive terms. He shall be ineligible for the succeeding four years after the expiration of the *second* term for which he shall have been elected.

Section 2. It is proposed that Section 82 of the Constitution of Kentucky be amended to read as follows:

A Lieutenant Governor shall be chosen at every regular election for Governor, in the same manner, to continue in office for the same time, and possess the same qualifications as the Governor. *The Lieutenant Governor shall be eligible to election for two (2) consecutive terms.* He shall be ineligible to the office of Lieutenant Governor for the succeeding four (4) years after the expiration of the *second* term for which he shall have been elected.

Section 3. It is proposed that Section 93 of the Constitution of Kentucky be amended to read as follows:

The Treasurer, Auditor of Public Accounts, Secretary of State, Commissioner of Agriculture, Labor and Statistics, Attorney General, Superintendent of Public Instruction and Register of the Land Office shall be *eligible* [~~ineligible~~] to re-election for the succeeding four years after the expiration of the term for which they shall have been elected. *Those officers shall be ineligible to their respective officers for the succeeding four (4) years after the expiration of the second term for which they shall have been elected.* The duties and responsibilities of these officers shall be prescribed by law, and all fees collected by any of said officers shall be covered into the treasury. Inferior State officers, not specifically provided for in this Constitution, may be appointed or elected, in such manner as may be prescribed by law, for a term not exceeding four years, and until their successors are appointed or elected and qualified.

Section 4. This amendment shall be submitted to the voters of the Commonwealth of Kentucky for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

Calendar

HB 551 and **HB 769** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

The Speaker appointed the following members to serve on a Conference Committee on **HB 25**: Representatives Long, Chairman; B. Jones and Ford.

HB 766, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Harper moved the adoption of Committee Amendment No. 1 to **HB 766**. Agreed.

Representative J. Harper moved that **HB 766**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 9, 1988 roll call on **HB 766** - Appendix A.)

HB 766, as amended, was passed and the title agreed to.

Representative J. Harper moved that the vote by which **HB 766**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 619, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of Committee Amendment No. 1 to **HB 619**. Agreed.

Representative Ackerson moved the adoption of Floor Amendment No. 1 to **HB 619**. Agreed.

Representative Ackerson moved that **HB 619**, as amended, be passed.

On the roll call the vote was: Yeas 71, Nays 23. (See March 9, 1988 roll call on **HB 619** - Appendix A.)

HB 619, as amended, was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 619**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 570, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bronger moved the adoption of Committee Amendment No. 1 to **HB 570**. Agreed.

Representative Clarke moved the adoption of Floor Amendment No. 1 to **HB 570**. Agreed.

Representative Bronger moved that **HB 570**, as amended, be passed.

On the roll call the vote was: Yeas 69, Nays 15. (See March 9, 1988 roll call on **HB 570** - Appendix A.)

HB 570, as amended, was passed and the title agreed to.

Representative Bronger moved that the vote by which **HB 570**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 87, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Second Committee Substitute to **HB 87**. Agreed.

Representative Blevins moved the adoption of Floor Amendment No. 1 to the Second Committee Substitute to **HB 87**. Agreed.

Representative Burch moved that **HB 87**, by way of Second Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 3. (See March 9, 1988 roll call on **HB 87** - Appendix A.)

HB 87, by way of Second Committee Substitute as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 87**, by way of Second Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 238, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McElroy moved the adoption of the Committee Substitute to **HB 238**. Agreed.

Representative McElroy moved that **HB 238**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 81, Nays 13. (See March 9, 1988 roll call on **HB 238** - Appendix A.)

HB 238, by way of Committee Substitute, was passed and the title agreed to.

Representative McElroy moved that the vote by which **HB 238**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 543, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 543**. Agreed.

Representative Rapier moved the adoption of Committee Amendment No. 2 to **HB 543**. Agreed.

Representative Moberly moved that **HB 543**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 6. (See March 9, 1988 roll call on **HB 543** - Appendix A.)

HB 543, as amended, was passed.

Representative Moberly moved the adoption of the Committee Title Amendment to **HB 543**. Agreed; and the title was agreed to.

Representative Moberly moved that the vote by which **HB 543**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 627, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 627**. Agreed.

Representative Donnermeyer moved that **HB 627**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 9, 1988 roll call on **HB 627** - Appendix A.)

HB 627, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 627**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 632, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of the Committee Substitute to **HB 632**. Agreed.

Representative M. Brown moved that **HB 632**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 80, Nays 15. (See March 9, 1988 roll call on **HB 632** - Appendix A.)

HB 632 was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HB 632**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 689 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 689** be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 9, 1988 roll call on **HB 689** - Appendix A.)

HB 689 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 689** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 697, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Committee Amendment No. 1 to **HB 697**. Agreed.

Representative Ford moved that **HB 697**, as amended, be passed.

On the roll call the vote was: Yeas 58, Nays 26. (See March 9, 1988 roll call on **HB 697** - Appendix A.)

HB 697, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 697**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 436, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 436**. Agreed.

Representative Lear moved that **HB 436**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 9, 1988 roll call on **HB 436** - Appendix A.)

HB 436, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 436**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 644 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved that **HB 644** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 9, 1988 roll call on **HB 644** - Appendix A.)

HB 644 was passed and the title agreed to.

Representative Little moved that the vote by which **HB 644** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 512, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of Committee Substitute to **HB 512**. Agreed.

Representative Ackerson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 512**. Agreed.

Representative Ackerson moved that **HB 512**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 75, Nays 15. (See March 9, 1988 roll call on **HB 512** - Appendix A.)

HB 512, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 512**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 772 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 772** be passed.

On the roll call the vote was: Yeas 85, Nays 5. (See March March 9, 1988 roll call on **HB 772** - Appendix A.)

HB 772 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 772** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 578, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Amendment No. 1 to **HB 578**. Agreed.

Representative Hancock moved that **HB 578**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 9, 1988 roll call on **HB 578** - Appendix A.)

HB 578, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 578**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 629, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved the adoption of Committee Amendment No. 1 to **HB 629**. Agreed.

Representative Hourigan moved the adoption of Committee Amendment No. 2 to **HB 629**. Agreed.

Representative Farrow moved the adoption of Committee Amendment No. 3 to **HB 629**. Agreed.

Representative Gedling moved that **HB 629**, as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 21. (See March 9, 1988 roll call on **HB 629** - Appendix A.)

HB 629, as amended, was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 629**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 694 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that **HB 694** be passed.

On the roll call the vote was: Yeas 85, Nays 4. (See March 9, 1988 roll call on **HB 694** - Appendix A.)

HB 694 was passed and the title agreed to.

Representative Guenthner moved that the vote by which **HB 694** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 663 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 663** be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See March 9, 1988 roll call on **HB 663** - Appendix A.)

HB 663 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 663** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 796, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved the adoption of Floor Amendment No. 1 to **HB 796**. Agreed.

Representative Yates moved that **HB 796**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See March 9, 1988 roll call on **HB 796** - Appendix A.)

HB 796, as amended, was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 796**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 173, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Floor Amendment No. 2 to **HB 173**. Agreed.

Representative Kerr moved that **HB 173**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 16. (See March 9, 1988 roll call on **HB 173** - Appendix A.)

HB 173, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 173**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 16, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 16**. Rejected.

Representative Donnermeyer moved that **HB 16** be passed.

Representative Donnermeyer moved that **HB 16** be laid on the Clerk's Desk. Agreed.

HB 226, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 226** is as follows:

Amend printed copy of **HB 226** on page 1, line 6, by deleting *"January"* and insert *"October"* in lieu thereof.

Representative Cline moved that the House concur in Senate Amendment No. 1 to **HB 226**. Agreed.

Representative Cline moved that **HB 226**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 9, 1988 roll call on **HB 226** - Appendix A.)

HB 226, as amended by the Senate, was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 226**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 638, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 638** is as follows:

Amend printed copy of **HB 638** on page 1, line 7, by deleting *"generation,"*; and

On page 2, line 7, by deleting *"millionths"*, and after *"and"* by adding *"nine thousand, nine hundred, and"*; and after the second *"ninety-nine"* by adding *"ten thousandths"*; and

On line 8, by deleting *"(99.999999%)"* and replacing it with *"(99.9999%)"*.

Representative Moberly moved that the House concur in Senate Amendment No. 1 to **HB 638**. Agreed.

Representative Moberly moved that **HB 638**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 9, 1988 roll call on **HB 638** - Appendix A.)

HB 638, as amended by the Senate, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 638**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 138, by Representative Morris: A RESOLUTION recognizing the University of Louisville Center for Applied Microcirculatory Research and Development as the Commonwealth Center for Applied Microcirculatory Research and Development.

HR 139, by Representatives Blandford and Johnson: A RESOLUTION honoring Rex M. Robinson, Kentucky Artist.

HR 140, by Representative Hancock: A RESOLUTION honoring Ellen Glasgow, Kentucky Artist.

HCR 141, by Representatives Guenthner and L. Clark: A CONCURRENT RESOLUTION requesting the Legislative Research Commission to Conduct a study of amyotrophic lateral sclerosis, commonly known as "Lou Gehrig's disease," in Kentucky.

HR 142, by Representatives Keith and White: A RESOLUTION honoring Michael Wheeler, Kentucky Artist.

HR 143, by Representative Callahan: A RESOLUTION honoring Marlene Steele, Kentucky Artist.

HR 144, by Representative Callahan: A RESOLUTION praising the City of Wilder the honorary third place winner of the "Governor's Competition for Excelling in Park Habilitation."

HR 145, by Representative Scorsone: A RESOLUTION honoring Paul Brett Johnson, Kentucky Artist.

HR 146, by Representative White: A RESOLUTION honoring former state representative Buford Thomas Clark.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 797**, **HB 763**.

State Government: **SB 218**, **SB 222**, **SJR 42**, **HB 989**, **HJR 115**.

Health and Welfare: **HB 791**.

Banking and Insurance: **HJR 126**.

Agriculture and Small Business: **HB 853**, **HB 358**.

Business Organizations and Professions: **HB 862**.

Natural Resources and Environment: **HB 920**.

Appropriations and Revenue: **HB 516**, **HB 424**, **HB 423**, **HB 977**.

Report of Committees

The Committee on Banking and Insurance reported **HB 552** with Committee Amendments attached thereto, **HB 777**, and **HCR 62** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 552, AN ACT relating to insurance and rates thereof.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.35-010 is amended to read as follows:

(1) As used in this subtitle:

(a) "Casualty insurance" *has the meaning set forth in KRS 304.5-070* [~~means only those coverages for bodily injury or property damage legal liability which are combined with property insurance in a homeowner or farmowner insurance policy form approved by the commissioner~~]; and

(b) "Property insurance" has the meaning set forth in KRS 304.5-050.

(2) All insurers licensed to write and writing property and casualty insurance in this Commonwealth on a direct basis shall, subject to approval and regulation by the commissioner of insurance, establish and maintain a "FAIR" (Fair access to insurance requirements) plan and establish and maintain a reinsurance association and formulate and from time to time amend the plan and articles of association and rules and regulations in connection therewith, and assess and share on a fair and equitable basis all expenses, income, and losses incident to such "FAIR" plan and reinsurance association in a manner consistent with the provisions of this subtitle.

Section 2. KRS 304.35-020 is amended to read as follows:

Each insurer authorized to write and writing property and casualty insurance on a direct basis in this Commonwealth shall be required to become and remain a member of the plan and the reinsurance association, and comply with the requirements thereof as a condition of its authority to transact property *or casualty* insurance business in Kentucky.

Section 3. KRS 304.35-030 is amended to read as follows:

(1) The "FAIR" plan and articles of association shall make provision for a reinsurance association having authority on behalf of its members *as their agent* to cause to be issued property and casualty insurance policies, to reinsure in whole or in part any such policies, and to cede any such reinsurance. The plan and articles of association shall provide, among other things, for the *lines of business to be written, policy forms to be used,* perils to be covered, geographical area of coverage, compensation and commissions, assessments of members *(which assessments annually shall not exceed one-fourth of one percent (1/4 of 1%) of any such member's net direct premium written on a voluntary basis in this state during the preceding year),* participation in the writings, expenses, income and losses in the proportion each member's property and casualty premiums written bear to the aggregate property and casualty premiums *voluntarily* written by all members, the administration of the plan and association, and any other matter necessary or convenient for the purpose of assuring fair access to insurance requirements.

(2) If the commissioner, in the fullfillment of the duties imposed on him by KRS 304.13-041, determines that a reasonable degree of competition does not exist in the market for any lines of insurance, within the definitions of KRS 304.5-050 (property insurance) and KRS 304.5-070 (casualty insurance), or either of them, and issues an order to that effect, the commissioner shall order the governing committee to promptly amend the plan to include such line or lines of business unless, in the commissioner's opinion, an effective residual market mechanism as defined in KRS 304.13-011(8) is already then functioning to provide basic insurance requirements to worthy applicants for reasonable amounts of coverage under such line or lines of insurance with insurers licensed to do business in this state. For accounting and rate making purposes, the commissioner may require the plan to provide for the establishment and maintenance of separate accounts for any line included in the plan pursuant to this section [~~The reinsurance association shall administer the mine subsidence insurance fund if directed to do so by the commissioner~~].

Section 4. KRS 304.35-040 is amended to read as follows:

(1) The reinsurance association shall be governed by a committee consisting of seven (7) persons to be appointed by the commissioner of insurance within five (5) days from July 15, 1980. The governing committee shall be composed of two (2) persons representing insurers chartered under the laws of the Commonwealth of Kentucky, one (1) person representing an insurer that is neither chartered under the laws of the Commonwealth of Kentucky nor affiliated with one (1) of the national insurance trade associations, one (1) person representing an insurer from each of the following three (3) associations: American Insurance Association, Alliance of American Insurers, National Association of Independent Insurers, and one (1) licensed insurance agent.

(2) Within thirty (30) days following July 15, 1980, the governing committee of the association shall submit to the commissioner of insurance, for his review, a proposed "FAIR" plan and articles of association consistent with the provisions of this subtitle.

(3) The "FAIR" plan and articles of association shall be subject to approval by the commissioner of insurance and shall take effect five (5) days after having been approved by him. If the commissioner disapproves all or any part of the proposed plan and articles, the governing committee of the association shall within fifteen (15) days submit for review an appropriately revised plan and articles; and, if the governing committee fails to do so, the commissioner shall thereafter promulgate such plan and articles consistent with the provisions of this subtitle.

(4) The governing committee of the association may, on its own initiative or shall at the request of the commissioner, amend the plan and articles, subject to approval by the commissioner.

(5) The governing committee of the association shall, on or before April 1 of each year, file with the commissioner, on such forms as the commissioner requires, an accounting of the plan's operations during the preceding calendar year together with its financial condition, and its underwriting experience as to each separate account maintained therein, as of the end of such year. The commissioner may require interim accountings

on a quarterly basis or examine the affairs of the association when, in his opinion, such action is necessary to determine the continued solvency of the reinsurance association.

(6) If at any time the commissioner determines that the reinsurance association is or may become unable to meet its financial obligations during the current year, the commissioner shall order the governing committee to levy appropriate assessments within the limitations of KRS 304.35-030(1) against all members. If the commissioner further determines that such assessment, when levied at the maximum rate for any account during any calendar year, is or may be insufficient to maintain the solvency of the reinsurance association for at least one year, the commissioner shall order each member to collect a premium surcharge for the benefit of the reinsurance association of one dollar ($1.00) from the holder of each individual policy or certificate written or renewed either voluntarily by such member or as a residual market mechanism assignment during the subsequent twelve (12) month period. Such policy or certificate surcharge shall be remitted monthly to the association by each member and shall be in addition to any assessments levied against the member pursuant to KRS 304.35-030(1) by the governing committee.

Section 5. KRS 65.150 is amended to read as follows:

(1) A county or city or urban-county government *and any board, commission, agency or authority of a county, city or urban-county government* may expend funds necessary to insure any of its employes, [~~and~~] officials *and property* against any liability *or property damage* arising out of an act or omission committed in the scope and course of performing legal duties.

(2) A county fee officer and his deputies and assistants may be insured pursuant to subsection (1) of this section, or the officer may expend excess fees to insure himself and his deputies and assistants against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

(3) Any parties eligible to expend funds for insurance pursuant to this section may associate, *pursuant to KRS 65.210 to 65.300,* for the purpose of insuring themselves *against any liability or property damage.*

(4) An association of governmental units formed for the purpose of providing insurance to the participating members may act on behalf of and with the approval of the participating governmental units to borrow money and issue revenue bonds to fund the costs of providing the insurance. Revenue bonds issued pursuant to the authority granted in this subsection shall be issued in accordance with KRS 65.270.

Section 6. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

(a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:

1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;

2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1500) pounds or less which is not used in the occupation, profession or business of the insured; provided, however, that this section shall not apply:

a. To any policy issued under an automobile assigned risk plan;

b. To any policy insuring more than four (4) automobiles; or

c. To any policy covering garage, automobile sales agency, repair shop, service station or public parking place operation hazards;

(b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, and automobile physical damage coverage;

(c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than *three (3)* [~~six (6)~~] months shall for the purpose of this section be considered as if written for a policy period or term of *three (3)* [~~six (6)~~] months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and such policy may be terminated at the expiration of any annual period upon giving *seventy-five (75)* [~~twenty (20)~~] days' notice of cancellation prior to such anniversary date, and such cancellation shall not be subject to any other provisions of this section; and

(d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any instalment of such premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit.

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

1. Nonpayment of premium; or

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy; and

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4) No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.

(5) No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least *seventy-five (75)* [~~twenty (20)~~] days' advance notice of its intention not to renew. [~~This subsection shall not apply:~~

~~(a) If the insurer has manifested its willingness to renew; no.~~

~~(b) In case of nonpayment of premium. Provided, that, notwithstanding the failure of an insurer to comply with this subsection, the policy shall terminate on the effective date of any other insurance policy with respect to any automobile designated in both policies.~~]

(6) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(7) If the insurer has manifested its willingness to renew by mailing or delivering of a renewal notice, bill, certificate, or policy to the first named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly

set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(8) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (7) of this section.

(b)[~~(6)~~] Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy, shall be sufficient proof of notice.

(9)[~~(7)~~] No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is handicapped or a physically disabled person, so long as the handicap or physical disability does not substantially impair the person's mechanically assisted driving ability.

(10)[~~(8)~~] When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance to which subsection (5) of this section applies, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. Such notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. Such notice shall also inform the insured that he may, within four (4) days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b).

(11)[~~(9)~~] The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(12)[~~(10)~~] There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employes, or any firm, person or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

Section 7. KRS 304.20-310 is amended to read as follows:

As used in KRS 304.20-320 to 304.20-350:

(1) "Renewal" or "to renew" means the issuance and delivery by an insurer at the end of a policy period or term of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of an existing policy beyond its policy period or term. For the purpose of KRS 304.20-320 to 304.20-350, any policy period or term of less than six (6) months shall be considered to be a policy period or term of six (6) months and any policy period or term of more than one (1) year or any policy with no fixed expiration date shall be considered a policy period or term of one (1) year;

(2) "Nonpayment of premium" means the failure of the named insured to discharge any obligation in connection with the payment of premiums on property or casualty insurance subject to KRS 304.20-320 to 304.20-350, whether such payments are directly payable to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit. "Nonpayment of premium" shall include failure to pay dues or fees where payment of such dues or fees is a prerequisite to obtaining or continuing property or casualty insurance coverage;

(3) "Termination" means either a cancellation or nonrenewal of property or casualty insurance coverage in whole or in part. A cancellation occurs during the policy period or term as set forth in subsection (1)

of this section. A nonrenewal occurs at the end of the policy *period* [~~year~~] or term as set forth in subsection (1) of this section. For the purpose of KRS 304.20-320 to 304.20-350, the transfer of a policyholder between companies within the same insurance group shall be considered a termination, but requiring a reasonable deductible, reasonable changes in the amount of insurance, or reasonable reductions in policy limits or coverage shall not be considered a termination if such requirements are directly related to *an increased* [~~the~~] hazard involved and are made on the renewal date for the policy;

(4) "Declination" means either the refusal of an insurer to issue a property or casualty insurance policy upon receipt of a written non-binding application or written request for coverage from its agent or an applicant, or refusal of an agent to transmit to an insurer a written non-binding application or written request for coverage received from an applicant. For the purposes of KRS 304.20-320 to 304.20-350, the offering of insurance coverage with a company within an insurance group which is different from the company requested on the non-binding application or written request for coverage for the offering of insurance upon different terms than requested in the non-binding application or written request for coverage shall be considered to be a declination; and

(5) "Agent" includes, but is not limited to, surplus lines brokers.

Section 8. KRS 304.20-320 is amended to read as follows:

(1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.

(2) Cancellations.

(a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation; and

(b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least *seventy-five (75)* [~~thirty (30)~~] days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days.

(3) Nonrenewals.

(a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least *seventy-five (75)* [~~thirty (30)~~] days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period *with*[~~. The insured may request in writing an explanation of the insurer's reason for a nonrenewal. Upon receipt of such request, the insurer shall provide~~] a written explanation of the specific reason or reasons for the nonrenewal;

(b) [~~No notice of intention not to renew shall be required where the named insured is given notice of the insurer's willingness to renew the policy by mailing or delivering of a renewal notice, bill, certificate, or policy; and~~

~~(c)~~] If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal;

(c) If the insurer has manifested its willingness to renew by mailing or delivering of a renewal notice, bill, certificate, or policy to the first named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When

any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist; and

(d) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date shall constitute a presumption of receipt pursuant to paragraph (c) of this subsection.

(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least *seventy-five (75)* [~~thirty (30)~~] days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, [~~notice of such premium increase or~~] a *notice* [~~bill~~] for the renewal premium *amount* and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium *amount* [~~increase~~]. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

Section 9. KRS 304.13-051 is amended to read as follows:

(1) In a competitive market, every insurer shall file with the commissioner rates and supplementary information to be used in this state for commercial risks as designated by the commissioner and for all personal risks. Such rates and supplementary rate information shall be filed not later than fifteen (15) days after the date of first use of the rates, unless the commissioner finds after a hearing that an insurer's rates require closer supervision because of the insurer's financial condition. On such a finding, rates for both personal and commercial risks, supplementary rate information, and supporting information shall be filed with the commissioner at least thirty (30) days before the effective date of the rates. Such an order shall expire no later than one (1) year after it is issued.

(2) In a noncompetitive market, every insurer shall file with the commissioner all rates for that market, supplementary rate information, and supporting information at least thirty (30) days before the proposed effective date of the rates. On application of the filer, the commissioner may authorize an earlier effective date.

(3) Any rate filing in effect at the time the commissioner determines that competition does not exist pursuant to KRS 304.13-041 shall be deemed to be effective until disapproved pursuant to the procedures and rating standards of this chapter.

(4) Every insurer shall file with the commissioner all rating manuals and underwriting rules that it uses in this state not later than fifteen (15) days after they become effective. Such manuals, rules and guidelines must be adhered to until amended. The commissioner may exempt an insurer from filing supporting information if it files by reference, with or without deviation, to a filing which is in effect for another insurer or an advisory organization.

(5) (a) No insurer shall place into effect any rates, manuals, or underwriting rules which it proposes to use pursuant to subsection (1) or (4) of this section if such rates, manuals or underwriting rules will result in an increase or decrease of more than twenty-five percent (25%) from such insurer's then existing rates for any classification of risks in any of its rating territories within a twelve (12) month period of time.

(b) Any insurer which proposes to change its then existing rates, manuals or underwriting rules so as to effectively increase or decrease the rates of any classification of risks within any rating territory more than twenty-five percent (25%) within a twelve (12) month period shall file all such rates and supplemental rating information which shall not become effective until approved by the commissioner.

(6)[~~(5)~~] Rates and supplemental rating information for a residual market mechanism shall not become effective until approved by the commissioner.

(7)[~~(6)~~] The commissioner shall review filings made in accordance with subsections (2), *(5)(b)* and *(6)* [~~(5)~~] of this section as soon as reasonably possible after they have been made in order to determine whether they meet the applicable requirements of this chapter. Each filing shall be on file for a waiting period of thirty (30) days before it becomes effective, which period may be extended by the commission for an additional period not to exceed thirty (30) days if he gives written notice within such waiting period to the insurer

which made the filing that additional time is needed for consideration of the filing. The commissioner may, when he deems it to be in the public interest, hold a public hearing on any filing before said filing becomes effective to determine whether the filing meets the requirements of this subtitle. In the event that a hearing is held under the provisions of this subsection, the waiting periods specified in this subsection shall not begin to run until thirty (30) days after the close of such hearing. The burden of establishing that the filing under consideration meets the requirements of this subtitle is on the insurer which makes such filing. A filing shall be deemed to meet the requirements of this subtitle unless disapproved by the commissioner within the waiting period or any extension thereof.

SECTION 10. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every insurer shall provide to the commissioner such information as the commissioner may require to demonstrate to what extent the insurer's rates are based upon its Kentucky experience.

SECTION 11. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every authorized insurer which writes casualty insurance in this state shall develop, maintain and report to the commissioner of insurance, as an exhibit to its annual statement, such information as shall be required by the commissioner with regard to each bodily injury claim made against it or its insured by any person who has sustained bodily injury from an accident occurring within the confines of this Commonwealth. Each such claim shall be reported with the annual statement covering the period during which the claim was closed. The commissioner may, upon ninety (90) days' notice to any authorized insurer, require information on claims closed during any other period designated by him.

(2) The information to be reported in accordance with the provisions of this section shall, when applicable, include:

(a) Information relating to the identification of the insurer;

(b) Information relating to the casualty insurance policy including the type or types of insurance, the amounts of various policy limits, whether the policy was occurrence or claims-made, the classification of the insured, and reserves for the claim;

(c) Details concerning any injury, damage, and other losses that were the subject of the claim, including the types of injuries, damages, and other losses, where and how injuries, damages, and other losses occurred, age of any injured party, and whether an injury was work-related;

(d) Details relating to the claims process including whether suit was filed, where suit was filed, whether attorneys were involved, stage at which the claim was closed, court verdict, information relating to appeals, number of defendants, and whether the claim was settled outside of court and, if so, at what stage;

(e) Detailed information relating to the amounts paid on the claim including information relating to the total amount of a court award, the amount paid by the insurer, amounts paid by other insurers, amounts paid by other defendants, collateral sources, structured settlements, amount of noneconomic compensatory damages, amount of prejudgment interest, amounts paid for defense costs, amounts paid for punitive damages, and amounts of allocated loss adjustment expenses; and

(f) Any other information that the commissioner determines to be significant in allowing the department and the general assembly to monitor the casualty insurance industry and its workings with the civil justice system and to assure that casualty insurance is available, affordable, and providing adequate protection in Kentucky.

(3) The commissioner shall adopt, in accordance with the provision of KRS Chapter 13A, administrative regulations setting out the manner and form in which the information required by this section is to be reported.

(4) The commissioner shall compile the information reported pursuant to this section and shall prepare annually a written report on the composite information. The report shall be available to the public except that individual bodily injury claims information shall be kept confidential by the department. Copies of the report

shall be provided to the governor and the presiding officers of each house of the general assembly.

SECTION 12. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurance policy for homeowners, dwelling fire, automobile, accident and health, life or other forms of personal insurance shall be delivered, issued for delivery, amended or renewed in this state after the effective date set out in subsection (2) of this section unless the policy is in compliance with the provisions of Sections 12 to 15 of this Act.

(2) The commissioner shall, within one (1) year from the effective date of this Act, promulgate regulations in accordance with the provisions of KRS Chapter 13A to carry out the provisions of Sections 12 to 15 of this Act and to establish minimum standards for the readability and intelligibility of insurance contracts. Within one (1) year of the effective date of the regulations all insurers licensed to transact business shall comply with the standards set out by Sections 12 to 15 of this Act and promulgated by the commissioner.

(3) The commissioner may, by order, exempt a type of personal lines insurance policy from the provisions of Sections 12 to 15 of this Act if the commissioner finds that type of policy is generally understood by persons to whom it is delivered.

SECTION 13. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurance policies subject to the provisions of Sections 12 to 15 of this Act shall contain as the first page or first page of text, if it is preceded by a title page or pages, a cover sheet or sheets as provided in this section. The cover sheet or sheets shall be printed in legible type and readable language, and shall contain at least the following:

(a) A brief statement that the policy is a legal contract between the policy owner and the company;

(b) The statement "READ YOUR POLICY CAREFULLY. This cover sheet provides only a brief outline of some of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth, in detail, the rights and obligations of both you and your insurance company. IT IS THEREFORE IMPORTANT THAT YOU READ YOUR POLICY.*" and*

(c) An index of the major provisions of the policy or contract and the pages on which they are found which may include the following items:

1. The person or persons insured by the policy;

2. The applicable events, occurrences, conditions, losses or damages covered by the policy;

3. The limitations or conditions on the coverage of the policy;

4. Definitional sections of the policy;

5. Provision governing the procedure for filing a claim under the policy;

6. Provisions governing cancellation, renewal, or amendment of the policy by either the insurer or the policyowner;

7. Any options under the policy; and

8. Provisions governing the insurer's duties and powers in the event that suit is filed against the insured.

(2) The cover sheet may include, either as part of the index or as a separate section, a brief summary of the extent and types of coverage in the policy.

(3) No cover sheet shall be used unless it has been filed with and approved by the commissioner. The cover sheet shall be deemed approved sixty (60) days after filing unless disapproved by the commissioner within the sixty (60) day period, subject to a reasonable extension of times as the commissioner may require by notice given within the sixty (60) day period. The commissioner shall disapprove any cover sheet which does not meet the requirements of this section. Any disapproval shall be delivered to the insurer in writing, stating the grounds therefor.

SECTION 14. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurance policies subject to the provisions of Sections 12 to 15 of this Act shall be written in language easily readable and understandable by a person of average intelligence and education.

(2) In determining whether a policy or contract is readable within the meaning of this section the commissioner shall consider, at least, the following factors:

(a) The simplicity of the sentence structure and the shortness of the sentences used;

(b) The extent to which commonly used and understood words are employed;

(c) The extent to which legal terms are avoided;

(d) The extent to which references to other sections or provisions of the contract are minimized;

(e) The extent to which definitional provisions are incorporated in the text of the policy or contract; and

(f) Any additional factors relevant to the readability or understandability of an insurance policy or contract which the commissioner may prescribe by regulation.

SECTION 15. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All insurance policies subject to the provisions of Sections 12 to 15 of this Act shall be printed in legible type and in a type face style approved by the commissioner. The commissioner shall by regulation establish a list of type face styles approved as acceptable.

(2) In determining whether a policy is legible the commissioner shall consider, in addition to the requirements of subsection (1) of this section relating to type face size and style, the following factors:

(a) Margin size;

(b) Contrast and legibility of the color of the ink and paper;

(c) The amount and use of space to separate sections of the policy;

(d) The use of contrasting titles or headings for sections or similar aids; and

(e) Any additional factors relevant to legibility which the commissioner may prescribe by regulation.

Section 16. KRS 304.10-090 is amended to read as follows:

Every insurance contract procured and delivered as a surplus lines coverage pursuant to this subtitle shall have conspicuously stamped upon the face page, initialed by or bearing the name of the surplus lines broker who procured it, the following:

"This insurance has been placed with an insurer not licensed to transact business in the Commonwealth of Kentucky but eligible as a surplus lines insurer. *The insurer is not a member of the Kentucky insurance* *guaranty association. Should the insurer become insolvent, the protection and benefits of the Kentucky insurance guaranty association are not available."*

SECTION 17. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All claims arising under the terms of any contract of insurance, unless there is a proper assignment of benefits, shall be paid to the named insured not more than sixty (60) days from the date upon which notice and proof of claim, in the substance and form required by the terms of the policy, are furnished the insurer.

(2) If an insurer fails to make a good faith attempt to settle a claim within the time prescribed in subsection (1) of this section, the value of the final settlement shall bear interest at the rate of twelve percent (12%) per annum.

(3) If an insurer fails to settle a claim within the time prescribed in subsection (1) of this section and the delay was without reasonable foundation, the insured shall be entitled to be reimbursed for his reasonable attorney's fees incurred. No part of the fee for representing the claimant in connection with this claim shall be charged against benefits otherwise due the claimant.

Section 18. KRS 304.3-200 is amended to read as follows:

(1) The commissioner may, in his discretion, refuse to continue or may suspend or revoke an insurer's certificate of authority if he finds after a hearing thereon, or upon waiver of hearing by the insurer, that the insurer has:

(a) Willfully violated or willfully failed to comply with any lawful order of the commissioner; or

(b) Willfully violated or willfully failed to comply with any lawful regulation of the commissioner; or

(c) Willfully violated any provision of this code other than those for violation of which suspension or revocation is mandatory; or

(d) Failed to pay taxes on its premiums as required by law; or

(e) Has committed any unfair claims settlement practice as defined in subtitle 12 or regulations promulgated thereunder.

In lieu of or in addition to such suspension or revocation, the commissioner may, in his discretion, *reprimand the insurer, which shall be made a part of the insurer's record, or may* levy upon the insurer, and the insurer shall pay forthwith, an administrative fine as specified in KRS 304.99-020.

(2) The commissioner shall suspend or revoke an insurer's certificate of authority on any of the following grounds, if he finds after a hearing thereon that the insurer:

(a) Is in unsound condition, or is being fraudulently conducted, or is in such condition or using such methods and practices in the conduct of its business as to render its further transaction of insurance in this state currently or prospectively hazardous or injurious to policyholders or to the public.

(b) With such frequency as to indicate its general business practice in this state:

1. Has without just cause failed to pay, or delayed payment of, claims arising under its policies, whether the claim is in favor of an insured or is in favor of a third person with respect to the liability of an insured to such third person; or

2. Without just cause compels insureds or claimants to accept less than the amount due them or to employ attorneys or to bring suit against the insurer or such an insured to secure full payment or settlement of such claims.

(c) Refuses to be examined, or if its directors, officers, employes or representatives refuse to submit to examination relative to its affairs, or to produce its accounts, records and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(d) Has failed to pay any final judgment rendered against it in this state upon any policy, bond, recognizance or undertaking as issued or guaranteed by it, within thirty (30) days after the judgment became final or within thirty (30) days after dismissal of an appeal before final determination, whichever date is the later.

(e) Has actual knowledge by the chief executive officer or person in charge of Kentucky operations that an agent employed by the insurer has engaged or is engaging in conduct in violation of this code and the insurer has failed to report such conduct to the department.

(f) No insurer, its agents, servants, or employes shall incur any liability in connection with or as a result of any disclosure made to the commissioner of insurance pursuant to the provisions of this section.

(3) The commissioner may, in his discretion and without advance notice or a hearing thereon, immediately suspend the certificate of authority of any insurer as to which proceedings for receivership, conservatorship, rehabilitation or other delinquency proceedings have been commenced in any state by the public insurance supervisory officer of such state.

Section 19. KRS 304.12-230 is amended to read as follows:

It is an unfair claims settlement practice for any person to commit or perform any of the following acts *or omissions* [~~with such frequency as to indicate a general business practice~~]:

(1) Misrepresenting pertinent facts or insurance policy provisions relating to coverages at issue;

(2) Failing to acknowledge and act reasonably promptly upon communications with respect to claims arising under insurance policies;

(3) Failing to adopt and implement reasonable standards for the prompt investigation of claims arising under insurance policies;

(4) Refusing to pay claims without conducting a reasonable investigation based upon all available information;

(5) Failing to affirm or deny coverage of claims within a reasonable time after proof of loss statements have been completed;

(6) Not attempting in good faith to effectuate prompt, fair and equitable settlements of claims in which liability has become reasonably clear;

(7) Compelling insureds to institute litigation to recover amounts due under an insurance policy by offering substantially less than the amounts ultimately recovered in actions brought by such insureds;

(8) Attempting to settle a claim for less than the amount to which a reasonable man would have believed he was entitled by reference to written or printed advertising material accompanying or made part of an application;

(9) Attempting to settle claims on the basis of an application which was altered without notice to, or knowledge or consent of the insured;

(10) Making claims payments to insureds or beneficiaries not accompanied by statement setting forth the coverage under which the payments are being made;

(11) Making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration;

(12) Delaying the investigation or payment of claims by requiring an insured, claimant, or the physician of either to submit a preliminary claim report and then requiring the subsequent submission of formal proof of loss forms, both of which submissions contain substantially the same information;

(13) Failing to promptly settle claims, where liability has become reasonably clear, under one portion of the insurance policy coverage in order to influence settlements under other portions of the insurance policy coverage; or

(14) Failing to promptly provide a reasonable explanation of the basis in the insurance policy in relation to the facts or applicable law for denial of a claim or for the offer of a compromise settlement.

SECTION 20. A NEW SECTION OF SUBTITLE 3 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The insurance consumer's advisory council of Kentucky is hereby established.

(2) The members of the insurance consumer's advisory council shall be nine (9) in number and shall be appointed by the governor for a term of four (4) years. To the extent possible, each member shall be appointed from a different geographic region and shall include:

(a) One (1) licensed insurance agent as defined in KRS 304.9-030;

(b) One (1) representative of an insurance company which has certificate of authority and is licensed to do business in Kentucky as defined by KRS 304.1-110;

(c) Two (2) citizens who are consumers of insurance.

(d) One (1) representative of a labor organization as defined by KRS 336.180;

(e) One (1) attorney at law licensed to practice law in the Commonwealth of Kentucky;

(f) One (1) representative who self-funds their risk either on an individual or group basis;

(g) One (1) representative of general business; and

(h) One (1) representative who is a health care provider.

(3) The chairman of the council shall be selected by a majority vote of the council. The council shall meet at least four (4) times annually at the call of the chairman. The council shall be attached for administrative purposes to the Kentucky department of insurance.

(4) It shall be the function of the council to advise the commissioner of insurance on matters of concern to the consumers of insurance and problems relating to the availability and affordability of insurance. The council shall conduct an ongoing study of the operation of all laws, rules, regulations, orders, and state policies affecting consumers and recommend to the governor, the legislature and the commissioner legislation, rules, regulations, orders and policies in the interest of consumers of insurance. The council shall maintain records indicating the final disposition by the official of any matter so referred.

SECTION 21. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the state treasury a fund entitled "fire protection improvement fund". The fund may receive state appropriations, gifts, grants, federal funds and tax receipts. The fund shall be disbursed by the state treasurer upon the warrant of the secretary of the finance and administration cabinet.

(2) Moneys in the fund shall include insurance premium surcharge proceeds as provided for in KRS 136.392.

(3) Moneys in the fund shall be used for the fire protection improvement program established in Section

22 of this Act.

SECTION 22. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the department for local government a fire protection improvement program to consist of a system of grants to fire protection districts and local governments to improve fire protection and safety for the residents served thereby. Grants made under this program shall be for priority capital expenditures such as purchase of major items of equipment or construction of water lines. Such priority items shall be certified by the state fire marshal as contributing to the upgrading of the protection category pursuant to the fire suppression rating schedule.

(2) The department for local government shall receive grant applications on an annual basis and review them based on estimated costs, local contribution and other criteria specified in regulation promulgated as directed herein. The department shall forward all eligible applications to the state fire marshal for his review. The state fire marshal shall review applications using the protection category as the primary criterion for assigning priorities, starting with the highest (worst) ratings. The prioritized applications shall then be returned to the administrator of the fire protection improvement program in the office for local government for a final ranking which shall include additional points in the ranking formula for local contribution to said proposed capital project or purchase. The administrator shall then make awards beginning with the first priority funded in full then proceeding on down the priority scale, as available monies allow. The administrator of the fund shall approve and award all project applications based on available monies in the fund. Disbursement of funds to the beneficiary agency shall follow a schedule of payments based on such rules and regulations promulgated by the department for local government. Rankings shall be made on an annual basis without alteration of previous awards. Applications received previously but which have not received awards shall be updated, as needed, by the applicant in each year's ranking process.

(3) Grants made under this program may be used as the local share to secure federal funds as long as program expenditures are in the priority area. Interest earned on funds received by fire protection districts or local units of government shall be used by the receiving entity in the priority expenditure categories prescribed by the state department for local government.

(4) The department for local government shall be responsible for the promulgation of rules and regulations necessary to implement the grants program authorized by this section with assistance from the justice cabinet, revenue cabinet and public protection and regulation cabinet, as necessary. The department for local government shall receive reasonable administrative costs from the program's monies.

(5) Any assistance granted under the fire protection improvement program shall be preceded by an agreement that an independent annual audit shall be conducted and that the audit report will include a certification that said funds were expended for the purpose intended. A copy of the audit and certification of compliance shall be forwarded to the department for local government within eighteen (18) months after the end of the fiscal year.

(6) The commissioner of the department for local government may make direct grants in aid of money out of the fund to any beneficiary agency for the construction or acquisition of any approved capital project. When a direct grant in aid has been made to a beneficiary agency, all contracts awarded for the purchase of materials, supplies, equipment or services, except professional and technical services, required for the construction or acquisition of the project shall be awarded to the lowest and best bidder in the discretion of the beneficiary agency after public advertisement as required by KRS Chapter 424 or other applicable law. All contracts awarded under this section for the construction, reconstruction or renovation of a building or other improvement to real estate shall be deemed contracts for public works within the meaning of KRS 341.317 and KRS Chapter 376 and other applicable statutes. All beneficiary agencies receiving a direct grant in aid under this subsection shall keep and maintain complete and accurate records of accounts of all expenditures of the grant monies which shall be subject to audit by the Commonwealth for a period of five (5) years after completion of the capital project. Beneficiary agencies shall complete approved capital projects within a reasonable period of time as determined by the department for local government. Upon completion of capital projects, beneficiary agencies shall submit project completion reports to the department for local government as prescribed by the department for local government and containing such documents and information as may be necessary to determine compliance with other applicable statutes and administrative regulations. Beneficiary agencies shall be liable to repay to the fund any granted funds for failure to submit full project completion reports within a reasonable period of time or for expenditure of granted funds in violation of statutes and regulations. No additional funds shall be approved until compliance, except at the discretion of the commissioner of the department. Any grant moneys not required after all of the costs of the capital project have been paid by the beneficiary agency shall be promptly returned to the Commonwealth for reallocation for expenditure for other capital projects

to which such funds had been originally allocated.

(7) No capital project shall be constructed under this Act except upon land to which:

(a) The Commonwealth, a political subdivision of the Commonwealth or the beneficiary agency of the capital project has a good and marketable title, free of encumbrances; or

(b) The beneficiary agency of the project;

has the right to the uninterrupted use, occupancy and possession for a period longer than the estimated useful life of the capital project; provided nothing herein shall prohibit the construction or renovation of public buildings on land with an existing encumbrance to secure payment of funds obtained for the acquisition or improvement of said land. Each beneficiary agency shall execute and deliver to the Commonwealth its written assurances, which shall be binding on such agencies' successors and assigns, guaranteeing that during its estimated useful life, the capital project or equipment purchase shall be operated and maintained for public purposes and pledging that no mortgage or other encumbrances shall be placed against any capital project wholly or equipment purchase financed out of the fund for the breach of which assurances the Commonwealth shall have right of entry to the capital project and the beneficiary agency, or its successors and assigns, shall forthwith convey the title to the capital project or equipment purchase to the Commonwealth. Similar assurances shall be executed and delivered to the Commonwealth by the beneficiary agencies of capital project or equipment purchases financed in part out of the fund and in part from other sources, except that when such additional funding is derived from the issuance and sale of revenue bonds or under other statutorily authorized financing methods, to secure the repayment of which funds a statutory mortgage lien is granted in favor of any person or group of persons, the capital project or equipment purchase may be encumbered to the extent authorized or required by the law under which such financing method was undertaken. The written assurances provided by beneficiary agencies under this section shall be lodged for recording and recorded in the office of the county clerk of the county in which the proposed project shall be located.

Section 23. KRS 42.190 is amended to read as follows:

(1) On June 1, 1982, and then on or before the first day of each December, March, June and September thereafter, the cabinet shall request in writing of the administrator of the professional fire fighters foundation program fund, which is established by KRS 95A.220, and of the administrator of the law enforcement foundation program fund, which is established by KRS 15.430, cost projections of their respective funds for the next quarter. *The cabinet shall also request in writing on the same schedule revenue estimates of total funds received by the revenue cabinet from insurance premium surcharge proceeds as provided for in KRS 136.392.* Based on *the estimate of quarterly receipts and the cost* [~~these~~] projections, the cabinet shall *allocate the* [~~determine the proportionate share of~~] total insurance premium surcharge proceeds, prescribed in KRS 136.392, *among the funds, as provided for in subsection (2) of this section* [~~to accrue to each fund~~].

(2) *Moneys projected for expenditure by the professional fire fighters foundation program fund and the law enforcement foundation program fund shall be allocated to those funds on a quarterly basis. All moneys not required to meet quarterly expenditure projections of the professional fire fighters foundation program fund and the law enforcement foundation program fund shall be allocated to the fire protection improvement fund.*

(3) Any balances in the professional fire fighters foundation program fund and the law enforcement foundation program fund shall be transferred into the fire protection improvement fund. The transfer shall be made as of the effective date of this Act.

(4) On or before the first day of each quarter, the cabinet shall certify to the state treasurer a distribution schedule describing the proportionate share of total insurance premium surcharge proceeds accruing to each fund during such quarter, and the state treasurer shall pay into each fund's trust and agency account its proportionate share of all deposited tax moneys as set forth and in the manner as prescribed in subsections (1) and (3) of KRS 136.392.

(5)[~~(3)~~] Moneys deposited in *the fire protection improvement fund's trust and agency account,* the professional fire fighters foundation program fund's trust and agency account, and in the law enforcement foundation program fund's trust and agency account, shall be invested by the state in accordance with state investment practices, and all earnings from such investments shall accrue to, and be paid into the respective account from which such investments are made. All moneys remaining on deposit at the close of the state's fiscal year in the professional fire fighters foundation program fund's trust and agency account and all earnings

from investments made from moneys in this account, shall not lapse, and shall be used only for the purposes as specified in KRS 95A.200 to 95A.300. All moneys remaining on deposit at the close of the state's fiscal year in the law enforcement foundation program fund's trust and agency account, and all earnings from investments made from moneys in this account, shall not lapse, and shall be used only for the purposes as specified in KRS 15.410 to 15.500. *All moneys remaining on deposit at the close of the state's fiscal year in the fire protection improvement fund's trust and agency account and all earnings from investments made from moneys in this account, shall not lapse, and shall be used only for the purposes specified in Section 22 of this Act.*

(6)[~~(4)~~] The cabinet shall provide monthly financial reports to *the administrator of the fire protection improvement fund,* the administrator of the professional fire fighters foundation program fund and the administrator of the law enforcement foundation program fund respecting the amount of funds received and on deposit in each fund and the amount of earnings accruing to each fund from their investment.

(7) All unencumbered fund balances held under KRS 17.250 in the volunteer fire department aid fund shall be transferred to the fire protection improvement fund. The transfer shall be made as of the effective date of this Act.

Section 24. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to regulations which shall be promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the revenue cabinet, on such forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any such moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. The funds derived from such premium surcharge[~~, except as provided in subsection (2) of this section,~~] shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of *the fire protection improvement fund (Section 21 of this Act),* the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) [~~Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in KRS 17.250; provided however, that insurance premium surcharge funds collected from the policyholders of any mutual company, cooperative or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1986, shall continue to be paid into the professional fire fighters foundation program fund and the law enforcement foundation program fund as prescribed herein.~~

~~(3)~~] Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the state treasury as set forth in subsection (1) of this section shall be paid by the state treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account *and the fire protection improvement fund trust and agency account.* The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300. *Moneys deposited to the fire protection improvement fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by Section 22 of this Act.*

(3) Other statutory provisions notwithstanding, no eligible participants in the law enforcement foundation

program fund and the professional fire fighters foundation program fund shall be admitted as of the effective date of this Act. All recipients of the two (2) funds specified herein on the effective date of this Act shall constitute as participants in the funds as long as they are deemed eligible participants in either of the two (2) funds. When all current participants cease to be eligible for the program, the funds shall sunset and authorizing statutes shall thereby be repealed. Any and all moneys remaining in either of the funds shall be transferred to the fire protection improvement fund's trust and agency account. From that point forward, all proceeds from the insurance premium surcharge as provided for in KRS 136.392 shall be deposited solely in the fire protection improvement fund for purposes set out in this Act.

Section 25. KRS 61.316 is amended to read as follows:

(1) "Volunteer fire fighter," as used in this section, means any person who is a member of or employed by a volunteer fire department of any county, city, fire district or other organized volunteer fire department operated and maintained on a nonprofit basis in the interest of health and safety of the inhabitants of the Commonwealth.

(2) The spouse of any volunteer fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the *fire protection improvement fund trust and agency account as established in Section 21 of this Act* [~~insurance premium surcharge moneys provided in subsection (2) of KRS 136.392~~]. If there is no surviving spouse, the payment shall be made to the surviving children. If there are no surviving children, the payment shall be made to any dependent parent of the deceased.

(3) The commission on fire protection personnel standards and education shall be authorized to promulgate and adopt regulations establishing procedures and criteria applicable to the administration of this section including, but not limited to, defining when a fire fighter dies in line of duty.

Section 26. KRS 304.2-400 is amended to read as follows:

(1) There is created in the state treasury a trust fund designated the "insurance regulatory trust fund" to which shall be credited all payments received under KRS 304.4-010.

(2) The moneys so received and deposited in the insurance regulatory trust fund shall be appropriated for use only by the department to defray the expenses of the department in discharge of its administrative and regulatory powers and duties as prescribed by law subject to the applicable laws relating to the appropriation of state funds and to the deposit and expenditure of state moneys. The department shall be responsible for the proper expenditure of these monies as provided by law.

(3) Any cash balance in excess of *two million dollars ($2,000,000)* [~~five hundred thousand dollars ($500,000)~~] in the insurance regulatory trust fund after all current fiscal year expenditures are met shall lapse to the general fund.

SECTION 27. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "insurer" means assessment or cooperative insurers, insurers, fraternal benefit societies, nonprofit hospital, medical-surgical, dental, and health service corporations, health maintenance organizations, and prepaid dental plan organizations.

(2) If the commissioner finds that there are insufficient funds for operations of the department, he may make an assessment on all insurers not to exceed .000235 of net direct written premium from Kentucky as reported in insurers' annual statements for the immediately proceeding calendar year. In making each assessment, the commissioner may establish a minimum ssessment. Assessments made pursuant to this section shall be in addition to all other taxes, assessments, and fees.

(3) Overdue payment of any assessments shall bear interest at the tax interest rate as set forth in KRS 131.010(6) from the date due until paid. Any unpaid assessment may be recovered in an action brought thereon in the name of the department in the Franklin circuit court or in any other court of appropriate jurisdiction. Such interest penalty is separate from other penalties applicable to violations of KRS Chapter 299 and this chapter and such an action is separate from any other means of collecting an assessment under KRS Chapter

299 or this chapter.

(4) All funds derived from assessments made pursuant to this section shall be deposited in the insurance regulatory trust fund. However, funds derived from assessments made pursuant to this section shall not lapse to the general fund pursuant to KRS 304.2-400(3) or any other law, but shall at all times be available to defray expenses of the department in discharge of its administrative and regulatory powers.

SECTION 28. A NEW SECTION OF KRS CHAPTER 299 IS CREATED TO READ AS FOLLOWS:

Assessment or cooperative insurers may be assessed pursuant to Section 27 of this Act.

SECTION 29. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Fraternal benefit societies may be assessed pursuant to Section 27 of this Act.

Section 30. KRS 304.4-010 is amended to read as follows:

The commissioner shall *by regulation prescribe the fees charged by the commissioner and the services for which fees shall be charged. All such fees shall be collected in advance.* [~~collect in advance fees, licenses and miscellaneous charges as follows:~~

~~(1) Annual statement:~~	
~~(a) Filing each year~~	~~$100.00~~
~~(b) Filing additional or supplemental statement in same year~~	~~100.00~~
~~(2) For filing charter documents:~~	
~~(a) Original charter document, bylaws and records of organization, or certified copies thereof, required to be filed~~	~~100.00~~
~~(b) Amended charter documents, bylaws and records of organization, or certified copies thereof~~	~~50.00~~
~~(3) Certificate of authority:~~	
~~(a) Issuance of original certificate~~	~~500.00~~
~~(b) Amending, to add a line~~	~~50.00~~
~~(c) Renewal, each year~~	~~100.00~~
~~(4) Organization of domestic mutual insurers:~~	
~~Filing application for solicitation permit and issuance of such permit~~	~~200.00~~
~~(5) Self insurer:~~	
~~(a) Application to become self-insurer under Subtitle 39~~	~~200.00~~
~~(b) Annual review of status under Subtitle 39~~	~~100.00~~
~~(c) Notification of self-insurance program under Subtitle 32~~	~~50.00~~

~~(6)~~	~~Agent's licenses, foreign and alien insurers:~~	
~~(a)~~	~~License for life insurer, whether or not health insurance is included, biennial~~	~~40.00~~
~~(b)~~	~~License for industrial life insurer, only, biennial~~	~~40.00~~
~~(c)~~	~~License for other insurance, each insurer represented, biennial~~	~~40.00~~
~~(d)~~	~~Limited license as travel insurance agent, biennial~~	~~40.00~~
~~(e)~~	~~Temporary license as property and casualty agent~~	~~20.00~~
~~(f)~~	~~Temporary license as life and health agent~~	~~20.00~~
~~(g)~~	~~Nonresident agent, biennial~~	~~50.00~~
~~(7)~~	~~Surplus lines broker, managing general agent, biennial~~	~~100.00~~
~~(8)~~	~~Solicitor's license, biennial~~	~~40.00~~
~~(9)~~	~~Adjuster's license, biennial~~	~~50.00~~
~~(a)~~	~~Temporary license as apprentice adjuster~~	~~25.00~~
~~(b)~~	~~Administrator's license, biennial~~	~~50.00~~
~~(10)~~	~~Consultant's license, biennial~~	~~50.00~~
~~(11)~~	~~Agent's licenses, fraternal benefit societies, Subtitle 32 corporations, health maintenance organizations, prepaid dental plan organizations, biennial~~	~~40.00~~
~~(12)~~	~~Examination, for or in connection with licensing of agents, solicitors, adjusters, and consultants~~	~~50.00~~
~~(13)~~	~~Annual registration fee of unauthorized insurer~~	~~500.00~~
~~(14)~~	~~Advisory organizations:~~	
~~(a)~~	~~Application for license~~	~~500.00~~
~~(b)~~	~~Annual renewal~~	~~100.00~~
~~(15)~~	~~Rate and form filings:~~	
~~(a)~~	~~Rate level revision filing in a non-competitive market~~	~~100.00~~
~~(b)~~	~~Other rate and form filings~~	~~5.00~~
~~(16)~~	~~Premium finance company license issuance and annual renewal~~	~~100.00~~
~~(17)~~	~~Cost of administering Subtitle 32 per membership contract in force on December 31st of each year, except the health insurance contract or contracts for state employes as authorized by KRS 18A.225~~	~~.10~~
~~(18)~~	~~Miscellaneous services:~~	

~~(a)~~	~~Filing other documents, each~~	~~5.00~~
~~(b)~~	~~Commissioner's certificate under seal, other than certificates, licenses, and other documents above provided for, each~~	~~5.00~~
~~(c)~~	~~For copies of any document on file with the commissioner, per page~~	~~.50~~
~~(d)~~	~~Copy of annual statements, per page~~	~~1.00~~]

Section 31. KRS 61.315 is amended to read as follows:

(1) As used in this section, "police officer" means every paid police officer, sheriff, or deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, elected to office or employed by any county, airport board created pursuant to KRS Chapter 183 or city or by the state; "fire fighter" means every paid fire fighter or volunteer fire fighter who is employed by or volunteers his services to the state, airport board created pursuant to KRS Chapter 183, or any county, city, fire district or any other organized fire department recognized[~~, pursuant to KRS 17.250,~~] as a fire department operated and maintained on a nonprofit basis in the interest of the health and safety of the inhabitants of the Commonwealth. In the event death benefits are paid under KRS 61.316 to eligible survivors of a volunteer fire fighter, then no benefits shall be paid to those survivors under this section.

(2) The spouse of any police officer, sheriff, deputy sheriff, or any auxiliary police officer appointed pursuant to KRS 95.445, or fire fighter whose death occurs as a direct result of an act in the line of duty shall receive a lump sum payment of twenty-five thousand dollars ($25,000), which sum shall be paid by the state treasurer from the general expenditure fund of the state treasury. If there is no surviving spouse, the payment shall be made to the surviving children, eighteen (18) or more years of age. For surviving children less than eighteen (18) years of age, the state treasurer shall:

(a) Pay ten thousand dollars ($10,000) to the surviving children; and

(b) Hold fifteen thousand dollars ($15,000) in trust divided into equal accounts at appropriate interest rates for each surviving child until such child reaches the age of eighteen (18) years.

If a child dies before reaching the age of eighteen (18) years, his account shall be paid to his estate. If there are no surviving children, the payment shall be made to any parents of the deceased.

(3) The commission on fire protection personnel standards and education shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to both paid and volunteer fire fighters, including but not limited to defining when a fire fighter has died in line of duty.

(4) The justice cabinet shall be authorized to promulgate and adopt regulations establishing criteria and procedures applicable to the administration of this section as it pertains to police officers, including but not limited to defining when a police officer has died in line of duty.

(5) The benefits payable under this section are in addition to any benefits now or hereafter prescribed under any police, sheriff or fire fighter's retirement or benefit fund established by the state, county, or any municipality.

(6) Any funds appropriated for the purpose of paying the death benefits described in subsection (2) of this section, shall be allotted to a self-insuring account. These funds shall not be used for the purpose of purchasing insurance.

Section 32. The following KRS sections are repealed:

17.250 Volunteer fire department aid fund established — Allotment of funds accruing from insurance premium surcharge proceeds — Reimbursement for equipment losses — Fire fighters training center fund established — Application for funding; and

304.12-210 Discrimination in property, casualty or surety policies on group basis prohibited.

The Committee Amendment No. 1 to **HB 552** is as follows:

Amend printed copy of **HB 552** on page 1, line 12 and on page 2, line 5 by placing brackets around and striking through the words "and writing";

On page 1, line 13 by inserting "*or*" after "property";

On page 1, line 13 and on page 2, line 6 by placing brackets around and striking through the word "and";

On page 2, line 6 by inserting "*or*" at the beginning of the line;

On page 23, line 3 by deleting "*such*";

On page 23, line 4 by deleting "*as the commissioner may require*";

On page 26, by deleting lines 11 through 15 in their entirety;

On page 31, line 6 by inserting after "*annum*" and before "." the words "*from and after the expiration of the sixty (60) day period*";

On page 37, line 16 by deleting "*at*";

On page 37, line 17 by deleting "*least four (4) times*'+and inserting in lieu thereof "*quarterly each year*";

On page 37, line 17 by deleting "*annually*";

On page 47, by deleting lines 7 through 11 in their entirety;

On page 50, line 9 before "*eligible*" by inserting "*groups other than those with current*";

On page 58, line 2 by deleting the brackets around and the strike through the words ", pursuant to KRS 17.250,"; and

On page 60 by deleting lines 2 through 6 in their entirety.

The Committee Amendment No. 2 to **HB 552** is as follows:

Amend printed copy of **HB 552** from page 38, line 6, to page 51, line 23, by deleting sections 21-25 in their entirety and renumbering subsequent sections accordingly; and

By deleting page 60 in its entirety and inserting in lieu thereof:

"Section 27. KRS 304.12-210, Discrimination in property, casualty or surety policies on group basis prohibited, is repealed."

The Committee Amendment No. 3 to **HB 552** is as follows:

Amend printed copy of **HB 552** on page 30, line 24, after the comma, by inserting "*or participating provider agreements exist,*".

HB 777, AN ACT relating to fraternal benefit societies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any incorporated society, order, or supreme lodge, without capital stock, including one (1) exempted under the provisions of subsection (1)(b) of Section 37 of this Act, whether incorporated or not, conducted solely for the benefit of its members and their beneficiaries and not for profit, operated on a lodge system with ritualistic form of work, having a representative form of government, and which provides benefits in accordance with this subtitle, shall be a fraternal benefit society.

SECTION 2. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A society shall be deemed to be operating on the lodge system if it has a supreme governing body and subordinate lodges into which members are elected, initiated or admitted in accordance with its laws, rules and ritual. Subordinate lodges shall be required by the laws of the society to hold regular meetings at least once in each month in furtherance of the purposes of the society.

(2) A society may, at its option, organize and operate lodges for children under the minimum age for adult membership. Membership and initiation in local lodges shall not be required of the children, nor shall they have a voice or vote in the management of the society.

SECTION 3. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A society shall have a representative form of government if:

(1) It has a supreme governing body constituted in one (1) of the following ways:

(a) An assembly composed of delegates elected directly by the members or at intermediate assemblies or conventions of members or their representatives, together with other delegates as may be prescribed in the society's laws. A society may provide for election of delegates by mail. The elected delegates shall constitute a majority in number and shall not have less than two-thirds (2/3) of the votes and not less than the number of votes required to amend the society's laws. The assembly shall be elected and shall meet at least once every four (4) years and shall elect a board of directors to conduct the business of the society between meetings of the assembly. Vacancies on the board of directors between elections may be filled in the manner prescribed by the society's laws.

(b) A board composed of persons elected by the members, either directly or by their representatives in intermediate assemblies, and any other persons prescribed in the society's laws. A society may provide for election of the board by mail. Each term of a board member may not exceed four (4) years. Vacancies on the board between elections may be filled in the manner prescribed by the society's laws. Those persons elected to the board shall constitute a majority in number and not less than the number of votes required to amend the society's laws. A person filling the unexpired term of an elected board member shall be considered to be an elected member. The board shall meet a least quarterly to conduct the business of the society.

(2) The officers of the society are elected either by the supreme governing body or by the board of directors;

(3) Only benefit members are eligible for election to the supreme governing body and the board of directors; and

(4) Each voting member shall have one (1) vote which shall not be cast by proxy.

SECTION 4. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

As used in this subtitle:

(1) "Benefit contract" shall mean the agreement for provision of benefits authorized by Section 16 of this

Act, as that agreement is described in subsection (1) of Section 19 of this Act.

(2) "Benefit member" shall mean an adult member who is designated by the laws or rules of the society to be a benefit member under a benefit contract.

(3) "Certificate" shall mean the document issued as written evidence of the benefit contract.

(4) "Premiums" shall mean premiums, rates, dues or other required contributions, however designated, which are payable under the certificate.

(5) "Laws" shall mean the society's articles of incorporation, constitution and bylaws, however designated.

(6) "Rules" shall mean all rules, regulations or resolutions adopted by the supreme governing body or board of directors which are intended to have general application to the members of the society.

(7) "Society" shall mean fraternal benefit society, unless otherwise indicated.

(8) "Lodge" shall mean subordinate member units of the society, known as camps, courts, councils, branches or by any other designation.

SECTION 5. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A society shall operate for the benefit of members and their beneficiaries by:

(a) Providing benefits as specified in Section 16 of this Act;

(b) Operating for one (1) or more social, intellectual, educational, charitable, benevolent, moral, fraternal, patriotic or religious purposes for the benefit of its members, which may also be extended to others. The purposes may be carried out directly by the society, or indirectly through subsidiary corporations or affiliated organizations.

(2) Every society shall have the power to adopt laws and rules for the government of the society, the admission of its members, and the management of its affairs. It shall have the power to change, alter, add to or amend the laws and rules and shall have other powers necessary and incidental to carrying into effect the objects and purposes of the society.

SECTION 6. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A society shall specify in its laws or rules:

(a) Eligibility standards for each and every class of membership. If benefits are provided on the lives of children, the minimum age for adult membership shall be set at not less than age fifteen (15) and not greater than age twenty-one (21).

(b) The process for admission to membership for each membership class; and

(c) The rights and privileges of each membership class. Only benefit members shall have the right to vote on the management of the insurance affairs of the society.

(2) A society may also admit social members who shall have no voice or vote in the management of the insurance affairs of the society.

(3) Membership rights in the society shall be personal to the member and shall not be assignable.

SECTION 7. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The principal office of any domestic society shall be located in this state. The meetings of its supreme governing body may be held in any state, district, province or territory wherein the society has at least one (1) subordinate lodge, or in such other location as determined by the supreme governing body; and all business transacted at the meetings shall be as valid in all respects as if the meetings were held in this state. The minutes of the proceedings of the supreme governing body and of the board of directors shall be in the English language.

(2) (a) A society may provide in its laws for an official publication in which any notice, report, or statement required by law to be given to members, including notice of election, may be published. The required reports, notices and statements shall be printed conspicuously in the publication. If the records of a society show that two (2) or more members have the same mailing address, an official publication mailed to one (1) member shall be deemed to be mailed to all members at the same address unless a member requests a separate copy.

(b) Not later than June 1 of each year, a synopsis of the society's annual statement providing an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each benefit member of the society; or, in lieu thereof, the synopsis may be published in the society's official publication.

(3) A society may provide in its laws or rules for grievance or complaint procedures for members.

SECTION 8. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The officers and members of the supreme governing body or any subordinate body of a society shall not be personally liable for any benefits provided by a society.

(2) Any person may be indemnified and reimbursed by any society for expenses reasonably incurred by, and liabilities imposed upon, the person in connection with or arising out of any action, suit or proceeding, whether civil, criminal, administrative or investigative, or threat thereof, in which the person may be involved by reason of the fact that he or she is or was a director, officer, employe or agent of the society or of any firm, corporation or organization which he or she served in any capacity at the request of the society. A person shall not be indemnified or reimbursed in relation to any matter in such action, suit or proceeding as to which he or she shall finally be adjudged to be or have been guilty of breach of a duty as a director, officer, employe or agent of the society nor in relation to any matter in such action, suit or proceeding, or threat thereof, which has been made the subject of a compromise settlement, unless in either case the person acted in good faith for a purpose the person reasonably believed to be in, or not opposed to, the best interests of the society and, in a criminal action or proceeding, in addition, had no reasonable cause to believe that his or her conduct was unlawful. The determination whether the conduct of the person met the standard required in order to justify indemnification and reimbursement in relation to any matter described in the preceding sentence may only be made by the supreme governing body or board of directors by a majority vote of a quorum consisting of persons who were not parties to the action, suit or proceeding or by a court of competent jurisdiction. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of no contest, as to the person shall not create a conclusive presumption that the person did not meet the standard of conduct required in order to justify indemnification and reimbursement. The foregoing right of indemnification and reimbursement shall not be exclusive of other rights to which the person may be entitled as a matter of law and shall inure to the benefit of his or her heirs, executors and administrators.

(3) A society may purchase and maintain insurance on behalf of any person who is or was a director, officer, employe or agent of the society, or who is or was serving at the request of the society as a director, officer, employe or agent of any other firm, corporation, or organization against any liability asserted against the person and incurred by him or her in any such capacity or arising out of his or her status as such, whether or not the society would have the power to indemnify the person against such liability under this section.

SECTION 9. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

The laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws of the society. The provision shall be binding on the society and every member and beneficiary of a member.

SECTION 10. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A domestic society organized on or after the effective date of this Act shall be formed as follows:

(1) Seven (7) or more citizens of the United States, a majority of whom are citizens of this state, who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. The purposes shall not include more liberal powers than are granted by this subtitle;

(c) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all such officers shall be elected by the supreme governing body, which election shall be held not later than one (1) year from the date of issuance of the permanent certificate of authority.

(2) The articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one (1) year shall be filed with the commissioner, who may require further information. The bond with sureties approved by the commissioner shall be in an amount, not less than three hundred thousand dollars ($300,000) nor more than one million five hundred thousand dollars ($1,500,000), as required by the commissioner. All documents filed shall be in the English language. If the purposes of the society conform to the requirements of this subtitle and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members.

(3) No preliminary certificate of authority granted under the provisions of this section shall be valid after one (1) year from its date or after such further period, not exceeding one (1) year, as may be authorized by the commissioner upon cause shown, unless the five hundred (500) applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one (1) year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business.

(4) Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one (1) regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

(a) Actual bona fide applications for benefits have been secured on not less than five hundred (500) applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(b) At least ten (10) subordinate lodges have been established into which the five hundred (500) applicants have been admitted;

(c) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of the applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(d) It shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of the society, that at least five hundred (500) applicants have each paid in cash at least lone (1) regular monthly premium, which premiums in the aggregate shall amount to at least one hundred fifty thousand dollars ($150,000). The advance premiums shall be held in trust during the period of organization; and if the society has not qualified for a certificate of authority within one (1) year, the premiums shall be returned to the applicants.

(5) The commissioner may make examination and require further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of KRS Chapter 304. The certificate of authority shall be prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

(6) Any incorporated society authorized to transact business in this state at the time this Act becomes effective shall not be required to reincorporate.

(7) No unincorporated or voluntary association shall be permitted to transact business in this state as a fraternal benefit society.

SECTION 11. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A domestic society may amend its laws in accordance with the provisions thereof by action of its supreme governing body at any regular or special meeting or, if its laws so provide, by referendum. The referendum may be held in accordance with the provisions of its laws by the vote of the voting members of the society, by the vote of delegates or representatives of voting members, or by the vote of local lodges. A society may provide for voting by mail. No amendment submitted for adoption by referendum shall be adopted unless, within six (6) months from the date of submission, a majority of the members voting shall have signified their consent to the amendment by one (1) of the methods herein specified.

(2) No amendment to the laws of any domestic society shall take effect unless approved by the commissioner, who shall approve the amendment if he finds that it has been duly adopted and is not inconsistent with any requirement of the laws of this state or with the character, objects and purposes of the society. Unless the commissioner shall disapprove any amendment within sixty (60) days after the filing, the amendment shall be considered approved. The approval or disapproval of the commissioner shall be in writing and mailed to the secretary or corresponding officer of the society at its principal office. In case the commissioner disapproves the amendment, the reasons therefor shall be stated in the written notice.

(3) Within ninety (90) days from the approval by the commissioner, all amendments, or a synopsis, shall be furnished to all members of the society, either by mail or by publication in full in the official publication of the society. The affidavit of any officer of the society or of anyone authorized by it to mail any amendments or synopsis, stating facts which show that same have been duly addressed and mailed, shall be prima facie evidence that the amendments or synopsis, have been furnished the addressee.

(4) Every foreign or alien society authorized to do business in this state shall file with the commissioner a duly certified copy of all amendments of, or additions to, its laws within ninety (90) days after the enactment of same.

(5) Printed copies of the laws as amended, certified by the secretary or corresponding officer of the society, shall be prima facie evidence of the legal adoption thereof.

SECTION 12. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A society may create, maintain and operate, or may establish organizations to operate, not for profit institutions to further the purposes permitted by paragraph (b) of subsection (1) of Section 5 of this Act. The institutions may furnish services free or at a reasonable charge. Any real or personal property owned, held or leased by the society for this purpose shall be reported in every annual statement, but shall not be allowed as an admitted asset of the society.

(2) No society shall own or operate funeral homes or undertaking establishments.

SECTION 13. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make reinsurance and authorized to do business in this state, or if not so authorized, one (1) which is approved by the commissioner; but no society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on the ceded risks to the extent reinsured; but no credit shall be allowed as an admitted asset or as a deduction from liability, to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after the effective date of this Act, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

(2) Notwithstanding the limitation in subsection (1) of this section, a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under Section 14 of this Act.

SECTION 14. A NEW SECTION OF SUBTITLE 29 KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) A domestic society may consolidate or merge with any other society by complying with the provisions of this section. It shall file with the commissioner:

(a) A certified copy of the written contract containing in full the terms and conditions of the consolidation or merger;

(b) A sworn statement by the president and secretary or corresponding officers of each society showing the financial condition thereof on a date fixed by the commissioner but not earlier than December 31, next preceding the date of the contract;

(c) A certificate of the officers, duly verified by their respective oaths, that the consolidation or merger has been approved by a two-thirds (2/3) vote of the supreme governing body of each society, the vote being conducted at a regular or special meeting of each body, or, if the society's laws so permit, by mail; and

(d) Evidence that at least sixty (60) days prior to the action of the supreme governing body of each society, the text of the contract has been furnished to all members of each society either by mail or by publication in full in the official publication of each society.

(2) If the commissioner finds that the contract is in conformity with the provisions of this section, that the financial statements are correct and that the consolidation or merger is just and equitable to the members of each society, the commissioner shall approve the contract and issue a certificate to that effect. Upon approval, the contract shall be in full force and effect unless any society which is a party to the contract is incorporated under the laws of any other state or territory. If the consolidation or merger shall not become effective unless and until it has been approved as provided by the laws of the state or territory and a certificate of approval filed with the commissioner of this state or, if the laws of the state or territory contain no such provision, the consolidation or merger shall not become effective unless and until it has been approved by the commissioner of insurance of the state or territory and a certificate of the approval filed with the commissioner of this state.

(3) Upon the consolidation or merger becoming effective, all the rights, franchises and interests of the consolidated or merged societies in and to every species of property, real, personal or mixed, and things in action thereunto belonging shall be vested in the society resulting from or remaining after the consolidation or merger without any other instrument, except that conveyances of real property may be evidenced by proper deeds; and the title to any real estate or interest therein, vested under the laws of this state in any of the societies consolidated or merged, shall not revert or be in any way impaired by reason of the consolidation or merger, but shall vest absolutely in the society resulting from or remaining after the consolidation or merger.

(4) The affidavit of any officer of the society or of anyone authorized by it to mail any notice or document, stating that the notice or document has been duly addressed and mailed, shall be prima facie evidence that the notice or document has been furnished the addressees.

SECTION 15. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Any domestic fraternal benefit society may be converted and licensed as a mutual life insurance company *by compliance with all the requirements of the insurance laws of this state for mutual life insurance companies. A plan of conversion shall be prepared in writing by the board of directors setting forth in full the terms and conditions of conversion. The affirmative vote of two-thirds (2/3) of all members of the supreme governing body at a regular or special meeting shall be necessary for the approval of the plan. No conversion shall take effect unless and until approved by the commissioner who may give approval if he finds that that proposed change is in conformity with the requirements of law and not prejudicial to the certificate holders of the society.*

SECTION 16. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 29 IS CREATED TO READ AS FOLLOWS:

(1) A society may provide the following contractual benefits in any form:

(a) Death benefits;

(b) Endowment benefits;

(c) Annuity benefits;

(d) Temporary or permanent disability benefits;

(e) Hospital, medical or nursing benefits;

(f) Monument or tombstone benefits to the memory of deceased members; and

(g) Other benefits as authorized for life insurers and which are not inconsistent with this subtitle.

(2) A society shall specify in its rules those persons who may be issued, or covered by, the contractual benefits in subsection (1) of this section, consistent with providing benefits to members and their dependents. A society may provide benefits on the lives of children under the minimum age for adult membership upon application of an adult person.

SECTION 17. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The owner of a benefit contract shall have the right at all times to change the beneficiary or beneficiaries in accordance with the laws or rules of the society, unless the owner waives this right by specifically requesting in writing that the beneficiary designation be irrevocable. A society may, through its laws or rules, limit the scope of beneficiary designations and shall provide that no revocable beneficiary shall have or obtain any vested interest in the proceeds of any certificate until the certificate has become due and payable in conformity with the provisions of the benefit contract.

(2) A society may make provision for the payment of funeral benefits to the extent of the portion of any payment under a certificate as might reasonably appear to be due to any person equitably entitled thereto by reason of having incurred expense occasioned by the burial of the member. The portion so paid shall not exceed the sum of five hundred dollars ($500).

(3) If, at the death of any person insured under a benefit contract, there is no lawful beneficiary to whom the proceeds shall be payable, the amount of the benefit, except to the extent that funeral benefits may be paid as provided, shall be payable to the personal representative of the deceased insured. If the owner of the certificate is other than the insured, the proceeds shall be payable to the owner.

SECTION 18. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No money or other benefit, charity, relief or aid to be paid, provided or rendered by any society, shall be liable to attachment, garnishment or other process, or to be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment by the society.

SECTION 19. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every society authorized to do business in this state shall issue to each owner of a benefit contract a certificate specifying the amount of benefits provided. The certificate, together with any riders or endorsements attached thereto, the laws of the society, the application for membership, the application for insurance and declaration of insurability, if any, signed by the applicant, and all amendments to each, shall constitute the benefit contract, as of the date of issuance, between the society and the owner, and the certificate shall so state. A copy of the application for insurance and declaration of insurability, if any, shall be endorsed upon or attached to the certificate. All statements on the application shall be representations and not warranties. Any waiver of this provision shall be void.

(2) Any changes, additions or amendments to the laws of the society duly made or enacted subsequent to the issuance of the certificate, shall bind the owner and the beneficiaries, and shall govern and control the benefit contract in all respects the same as though the changes, additions or amendments had been made prior to and were in force at the time of the application for insurance, except that no change, addition or amendment shall destroy or diminish benefits which the society contracted to give the owner as of the date of issuance.

(3) Any person upon whose life a benefit contract is issued prior to attaining the age of majority shall be bound by the terms of the application and certificate and by all the laws and rules of the society to the same extent as though the age of majority had been attained at the time of application.

(4) A society shall provide in its laws that, if its reserves as to all or any class of certificates become impaired, its board of directors or corresponding body may require that there shall be paid by the owner to the society the amount of the owner's equitable proportion of the deficiency as ascertained by its board, and that if the payment is not made either:

(a) It shall stand as an indebtedness against the certificate and draw interest not to exceed the rate specified for certificate loans under the certificates; or

(b) In lieu of or in combination with paragraph (a), the owner may accept a proportionate reduction in benefits under the certificate.

The society may specify the manner of the election and which alternative is to be presumed if no election is made.

(5) Copies of any of the documents mentioned in this section, certified by the secretary or corresponding officer of the society, shall be received as evidence of the terms and conditions thereof.

(6) No certificate shall be delivered or issued for delivery in this state unless a copy of the form has been filed with and approved by the commissioner in the manner provided for like policies issued by life insurers in this state. Every life, accident, health, or disability insurance certificate and every annuity certificate issued on or after one (1) year from the effective date of this Act shall meet the standard contract provision requirements not inconsistent with this subtitle for like policies issued by life insurers in this state, except that a society may provide for a grace period for payment of premiums of one (1) full month in its certificates. The certificates shall also contain a provision stating the amount of premiums which are payable under the certificate and a provision reciting or setting forth the substance of any sections of the society's laws or rules in force at the time of issuance of the certificate which, if violated, will result in the termination or reduction of benefits payable under the certificate. If the laws of the society provide for expulsion or suspension of a member, the certificate shall also contain a provision that any member so expelled or suspended, except for nonpayment of a premium or within the contestable period for material misrepresentation in the application for membership or insurance, shall have the privilege of maintaining the certificate in force by continuing payment of the required premium.

(7) Benefit contracts issued on the lives of persons below the society's minimum age for adult membership may provide for transfer of control or ownership to the insured at an age specified in the certificate. A society may require approval of an application for membership in order to effect this transfer, and may provide in all other respects for the regulation, government and control of certificates and all rights, obligations and liabilities incident thereto and connected therewith. Ownership rights prior to transfer shall be specified in the certificate.

(8) A society may specify the terms and conditions on which benefit contracts may be assigned.

SECTION 20. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) For certificates issued prior to one (1) year after the effective date of this Act, the value of every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall comply with the provisions of law applicable immediately prior to the effective date of this Act.

(2) For certificates issued on or after one (1) year from the effective date of this Act for which reserves are computed on the commissioner's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial table or the commissioner's 1958 standard ordinary mortality table, or the commissioner's 1980 standard mortality table, or anymore recent table made applicable to life insurers, every paid-up nonforfeiture benefit and the amount of any cash surrender value, loan or other option granted shall not be less than the corresponding amount ascertained in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits based upon such tables.

SECTION 21. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

A society shall invest its funds only in such investments as are authorized by the laws of this state for the investment of assets of life insurers and subject to the limitations thereon. Any foreign or alien society permitted or seeking to do business in this state which invests its funds in accordance with the laws of the state, district, territory, county or province in which it is incorporated, shall be held to meet the requirements of this section for the investment of funds.

SECTION 22. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) All assets shall be held, invested and disbursed for the use and benefit of the society and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment on the surrender of any part thereof, except as provided in the benefit contract.

(2) A society may create, maintain, invest, disburse and apply any special fund or funds necessary to carry out any purpose permitted by the laws of the society.

(3) A society may, pursuant to resolution of its supreme governing body, establish and operate one (1) or more separate accounts and issue contracts on a variable basis, subject to the provisions of law regulating life insurers establishing accounts and issuing contracts. To the extent the society deems it necessary in order to comply with any applicable federal or state laws, or any rules issued thereunder, the society may adopt special procedures for the conduct of the business and affairs of a separate account; may, for persons having beneficial interests therein, provide special voting and other rights, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of certified public accountants, and selection of a committee to mange the business and affairs of the account; and may issue contracts on a variable basis to which subsections (2) and (4) of Section 25 of this Act shall not apply.

SECTION 23. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Except as herein provided, societies shall be governed by this subtitle and shall be exempt from all other provisions of the insurance laws of this state unless they be expressly designated therein, or unless it is specifically made applicable by this subtitle. Societies shall be subject to the applicable fees and penalties as specified in subtitles 4 and 99 of KRS Chapter 304.

SECTION 24. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every society organized or licensed under this subtitle shall be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal and school tax, other than taxes on real estate and office equipment.

SECTION 25. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ

AS FOLLOWS:

(1) Standards of valuation for certificates issued prior to one (1) year after the effective date of this Act shall be those provided by the laws applicable immediately prior to the effective date of this Act.

(2) The minimum standards of valuation for certificates issued on or after one (1) year from the effective date of this Act shall be based on the following tables:

(a) For certificates of life insurance - the commissioner's 1941 standard ordinary mortality table, the commissioner's 1941 standard industrial mortality table, the commissioner's 1958 standard ordinary mortality table, the commissioner's 1980 standard ordinary mortality table or any more recent table made applicable to life insurers;

(b) For annuity and pure endowment certificates, for total and permanent disability benefits, for accidental death benefits and for non-cancellable accident and health benefits, such tables as are authorized for use by life insurers in this state.

All of the above shall be under valuation methods and standards, including interest assumptions, in accordance with the laws of this state applicable to life insurers issuing policies containing like benefits.

(3) The commissioner may, in his discretion, accept other standards for valuation if he finds that the reserves produced thereby will not be less in the aggregate than reserves computed in accordance with the minimum valuation standard herein prescribed. The commissioner may, in his discretion, vary the standards of mortality applicable to all benefit contracts on substandard lives or other extra hazardous lives by any society authorized to do business in this state.

(4) Any society, with the consent of the commissioner of insurance of the state of domicile of the society and under the conditions, if any, which the commissioner may impose, may establish and maintain reserves on its certificates in excess of the reserves required thereunder, but the contractual rights of any benefit member shall not be affected thereby.

SECTION 26. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every society transacting business in this state shall annually, on or before the first day of March, file with the commissioner a true statement of its financial condition, transactions and affairs for the preceding calendar year and pay a fee of ten dollars ($10.00) for filing it. The statement shall be in general form and context as approved by the national association of insurance commissioners for fraternal benefit societies and as supplemented by additional information required by the commissioner.

(2) As part of the annual statement, each society shall, on or before the first day of March, file with the commissioner a valuation of its certificates in force on December 31 last preceding. The commissioner may, in his discretion for cause shown, extend the time for filing the valuation for not more than two (2) calendar months. The valuation shall be done in accordance with the standards specified in Section 25 of this Act. The valuation and underlying data shall be certified by a qualified actuary or, at the expense of the society, verified by the actuary of the department of insurance of the state of domicile of the society.

(3) A society failing to file the annual statement in the form and within the time provided by this section shall forfeit one hundred dollars ($100) for each day during which the default continues; and, upon notice by the commissioner, its authority to do business in this state shall cease while the default continues.

(4) Each society authorized to transact business in this state pursuant to this subtitle shall comply with KRS 304.2-205.

SECTION 27. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Societies which are now authorized to transact business in this state may continue to do business until May 1 next succeeding the effective date of this Act. The authority of the societies, and all societies hereafter *licensed, may be renewed annually, but in all cases shall terminate on the succeeding April 30. However, a license so issued shall continue in full force and effect until the new license be issued or specifically refused. For each license or renewal, the society shall, prior to May 1, pay to the commissioner a fee as specified in subtitle 4 of this chapter. A duly certified copy or duplicate of the license shall be prima facie evidence that the licensee is a fraternal benefit society within the meaning of this subtitle.*

SECTION 28. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner, or any person he may appoint, may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public, as provided in the laws regulating insurers, shall also be applicable to the examination of societies.

(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner.

SECTION 29. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No foreign or alien society shall transact business in this state without a license issued by the commissioner. Any society desiring admission to this state shall comply substantially with the requirements and limitations of this subtitle applicable to domestic societies. Any society may be licensed to transact business in this state upon filing with the commissioner;

(1) A duly certified copy of its articles of incorporation;

(2) A copy of its bylaws, certified by its secretary or corresponding officer;

(3) A power of attorney to the commissioner as prescribed in this subtitle;

(4) A statement of its business under oath of its president and secretary or corresponding officers in a form prescribed by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state, territory, province or country, satisfactory to the commissioner;

(5) Certification from the proper official of its home state, territory, province or country that the society is legally incorporated and licensed to transact business therein;

(6) Copies of its certificate forms; and

(7) Such other information as the commissioner may deem necessary; and upon a showing that its assets are invested in accordance with the provisions of this subtitle.

SECTION 30. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner, upon investigation, finds that a domestic society:

(a) Has exceeded its powers;

(b) Has failed to comply with any provision of this subtitle;

(c) Is not fulfilling its contracts in good faith;

(d) Has a membership of less than four hundred (400) after an existence of one (1) year or more; or

(e) Is conducting business fraudently or in a manner hazardous to its members, creditors, the public or the business, the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The commissioner shall issue a written notice to the society requiring that the deficiency or deficiencies which exist be corrected. After the notice, the society shall have a thirty (30) day period in which to comply with the commissioner's request for correction; and if the society fails to comply, the commissioner shall notify the society of the findings of noncompliance and require the society to show cause on a date named why it should not be enjoined from carrying on any business until the violation complained of shall have been corrected, or why an action in Franklin Circuit Court should not be commenced against the society.

(2) If on that date the society does not present good and sufficient reasons why it should not be so enjoined or why such action should not be commenced, the commissioner may present the facts to the attorney general who shall, if he deems the circumstances warrant, commence an action to enjoin the society from transacting business.

(3) The court shall notify the officers of the society of a hearing. If after a full hearing it appears that the society should be so enjoined or liquidated or a receiver appointed, the court shall enter the necessary order. No society so enjoined shall have the authority to do business until:

(a) The commissioner finds that the violation complained of has been corrected;

(b) The costs of the action shall have been paid by the society, if the court finds that the society was in default as charged;

(c) The court has dissolved its injunction; and

(d) The commissioner has reinstated the certificate of authority.

(4) If the court orders the society liquidated, it shall be enjoined from carrying on any further business. The receiver of the society shall take possession of the books, papers, money and other assets of the society, and, under the direction of the court, close the affairs of the society and distribute its funds to those entitled to them.

(5) No action under this section shall be recognized in any court of this state unless brought by the attorney general upon request of the commissioner. If a receiver is to be appointed for a domestic society, the court shall appoint the commissioner as receiver.

(6) The provisions of this section relating to hearing by the commissioner, action by the attorney general at the request of the commissioner of insurance, hearing by the court, injunction and receivership shall be applicable to a society which shall voluntarily determine to discontinue business.

SECTION 31. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the commissioner upon investigation finds that a foreign or alien society transacting or applying to transact business in this state:

(a) Has exceeded its powers;

(b) Has failed to comply with any of the provisions of this subtitle;

(c) Is not fulfilling its contracts in good faith; or

(d) Is conducting its business fraudulently or in a manner hazardous to its members or creditors or the public, the commissioner shall notify the society of the deficiency or deficiencies and state in writing the reasons for his dissatisfaction. The commissioner shall issue a written notice to the society requiring that the deficiency or deficiencies which exist are corrected. After the notice, the society shall have a thirty (30) day period in which to comply with the commissioner's request for correction; and if the society fails to comply, the commissioner shall notify the society of the findings of noncompliance and require the society to show cause on a date named why its license should not be suspended, revoked or refused. If on that date the society does not present good and sufficient reason why its authority to do business in this state should not be suspended, revoked or refused,

the commissioner may suspend or refuse the license of the society to do business in this state until satisfactory evidence is furnished to the commissioner that suspension or refusal should be withdrawn or the commissioner may revoke the authority of the society to do business in this state.

(2) Nothing contained in this section shall be taken or construed as preventing any society from continuing in good faith all contracts made in this state during the time the society was legally authorized to transact business herein.

SECTION 32. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No application or petition for injunction against any domestic, foreign or alien society, or lodge thereof, shall be recognized in any court of this state unless made by the attorney general upon request of the commissioner.

SECTION 33. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Agents of societies shall be licensed in accordance with the provisions of subtitle 9 of this chapter regulating the licensing, revocation, suspension or termination of license of resident and nonresident agents. No examination shall be required of any person licensed as an agent for a society prior to January 1, 1987.

(2) No examination of license shall be required of any regular salaried officer, employe or member of a licensed society who devotes substantially all of his services to activities other than the solicitation of fraternal insurance contracts from the public, and who receives for the solicitation of the contracts no commission or other compensation directly dependent upon the amount of business obtained.

(3) Any agent, representative or member of a society who devotes, or intends to devote, less than fifty percent (50%) of the person's time to the solicitation and procurement of insurance contracts for the society shall be exempt from the requirements of subsection (1) of this section. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of fifty thousand dollars ($50,000), or in the case of any other kind or kinds of insurance which the society might write, on the persons of more than twenty-five (25) individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, fifty percent (50%) of time to the solicitation or procurement of insurance contracts for such society.

SECTION 34. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Every society authorized to do business in this state shall be subject to the provisions of subtitle 12 of this chapter relating to unfair trade practices. Nothing in the provisions shall be construed as applying to or affecting the right of any society to determine its eligibility requirements for membership, or be construed as applying to or affecting the offering of benefits exclusively to members or persons eligible for membership in the society by a subsidiary corporation or affiliated organization of the society.

SECTION 35. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every society authorized to do business in this state shall appoint in writing the secretary of state and each successor in office to be its true and lawful attorney upon whom all lawful process in any action or proceeding against it shall be served, and shall agree that any lawful process against it which is served on the attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of the appointment, certified by the commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original might be admitted.

(2) Service of process in any action may be made by service upon the secretary of state as provided in KRS 304.3-230.

SECTION 36. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

All decisions and findings of the commissioner made under the provisions of this subtitle shall be subject to review by proper proceedings in any court of competent jurisdiction in this state.

SECTION 37. A NEW SECTION OF SUBTITLE 29 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Nothing contained in this chapter shall be so construed as to affect or apply to:

(a) Grand or subordinate lodges of societies, orders or associations now doing business in this state which provide benefits exclusively through local or subordinate lodges;

(b) Orders, societies or associations which admit to membership only persons engaged in one (1) or more crafts or hazardous occupations, in the same or similar lines of business, insuring only their own members and their families, and the ladies societies or ladies' auxiliaries to such orders, societies or associations;

(c) Domestic societies which limit their membership to employes of a particular city or town, designated firm, business house or corporation which provide for a death benefit of not more than four hundred dollars ($400) or disability benefits of not more than three hundred fifty dollars ($350) to any person in any one (1) year, or both; or

(d) Domestic societies or associations of a purely religious, charitable or benevolent description, which provide for a death benefit of not more than four hundred dollars ($400) or for disability benefits of not more than three hundred fifty dollars ($350) to any one (1) person in any one (1) year, or both.

(2) Any society or association described in paragraphs (c) or (d) of subsection (1) of this section which provides for death or disability benefits for which benefit certificates are issued, and any society or association included in paragraph (d) of subsection (1) of this section which has more than one thousand (1000) members, shall not be exempted from the provisions of this subtitle but shall comply with all requirements therein.

(3) No society which, by the provisions of this section, is exempt from the requirements of this subtitle, except any society described in paragraph (b) of subsection (1) of this section, shall give or allow, or promise to give or allow to any person any compensation for procuring new members.

(4) Every society which provides for benefits in case of death or disability resulting solely from accident, and which does not obligate itself to pay natural death or sick benefits, shall have all of the privileges and be subject to all the applicable provisions and regulations of this subtitle except that the provisions thereof relating to medical examination, valuations of benefit certificates, and incontestability, shall not apply to the society.

(5) The commissioner may require from any society or association, by examination or otherwise, such information as will enable the commissioner to determine whether the society or association is exempt from the provisions of this subtitle.

(6) Societies, exempted under the provisions of this section, shall also be exempt from all other provisions of the insurance laws of this state.

Section 38. KRS 132.210 is amended to read as follows:

Every fraternal benefit society organized or licensed under *subtitle 29 of KRS Chapter 304* [~~KRS 304.29-010 to 304.29-570~~] is a charitable and benevolent institution, and its funds shall be exempt from all state, county, district, city and school taxes, other than taxes on real property and office equipment.

Section 39. KRS 304.15-115 is amended to read as follows:

(1) As used in this section:

(a) "Policy" includes annuity contracts as defined in KRS 304.5-030 which provide for policy loans, and certificates issued by a fraternal benefit society as defined in *Section 1 of this Act* [~~KRS 304.29-010~~];

(b) "Policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer;

(c) "Policy loan" includes an advance of cash as specified in KRS 304.15-110 and any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due; and

(d) "Published monthly average" means Moody's Corporate Bond Yield Average - Monthly Average Corporates as published by Moody's Investors Service, Inc. or any successor thereto, or, in the event that Moody's Corporate Bond Yield Average - Monthly Average Corporates is no longer published, a substantially similar average prescribed by the commissioner.

(2) Notwithstanding any other provision of law:

(a) Policies issued on or after July 13, 1984, shall contain either, but not both, of the following policy loan interest rate provisions:

1. A provision permitting a maximum interest rate of not more than eight percent (8%) per annum; or

2. A provision permitting an adjustable maximum interest rate established at regular intervals by the life insurer as permitted by law.

(b) The rate of interest charged on a policy loan made under paragraph (a)2. of this subsection shall not exceed eighteen percent (18%) nor the higher of the following:

1. The published monthly average for the calendar month ending two (2) months before the date on which the rate is determined; or

2. The rate used to compute cash surrender values under the policy during the applicable period plus one percent (1%) per annum.

(c) If the maximum rate of interest is determined pursuant to paragraph (a)2. of this subsection, the policy shall contain a provision setting forth the frequency at which the rate is to be determined for that policy;

(d) The maximum rate for each policy shall be determined at regular intervals at least once every twelve (12) months, but not more frequently than once in any three (3) month period. At the intervals specified in the policy:

1. The rate being charged may be increased whenever such increase as determined under paragraph (b) of this subsection would increase the rate by one-half of one percent (0.5%) or more per annum;

2. The rate being charged shall be reduced whenever such reduction as determined under paragraph (b) of this subsection would decrease that rate by one-half of one percent (0.5%) or more per annum.

(e) The life insurer shall:

1. Notify the policyholder at the time an advance of cash is made of the initial rate of interest on the loan;

2. Notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in subparagraph 3. of this paragraph;

3. Send to policyholders with loans reasonable advance notice of any increase in the rate; and

4. Include in the notices required in subparagraphs 1., 2., and 3. of this paragraph the substance of the pertinent provisions of paragraphs (a) and (c) of this subsection.

(f) The loan value of the policy shall be determined in accordance with KRS 304.15-110, but no policy shall terminate in a policy year as the sole result of changes in the interest rate during that policy year. The life insurer shall maintain coverage during that policy year until such time at which it would otherwise have terminated if there had been no change during that policy year;

(g) The substance of the pertinent provisions of paragraphs (a) and (c) of this subsection shall be set forth in the policies to which they apply;

(h) For the purposes of this section, the rate of interest on policy loans permitted under this section shall include the interest rate charged for reinstatement of policy loans for the period during and after any lapse of a policy;

(i) No other provision of law shall apply to policy loan interest rates unless such provision specifically applies to such rates.

(3) The provisions of this section shall not apply to any policy issued before July 13, 1984, unless the policyholder agrees in writing to the applicability of such provisions.

Section 40. KRS 304.99-130 is amended to read as follows:

(1) A fraternal benefit society neglecting to file the annual statement in the form and within the time provided for in subtitle 29 of this chapter shall forfeit one hundred dollars ($100) for each day during which such neglect continues, and, upon notice by the commissioner to that effect, its authority to do business in this state shall cease while such default continues.

(2) [~~Any person who violates any provision of KRS 304.29-530 or knowingly receives any compensation or commission by or in consequence of such violation is guilty of a Class A misdemeanor, and shall in addition be liable for a civil penalty in the amount of three (3) times the sum received by such violator as compensation or commission, which penalty may be recovered in a civil action by any person or fraternal benefit society so aggrieved.~~

~~(3)~~] Any person who wilfully makes a false or fraudulent statement or statements in or relating to an application for membership or for the purpose of obtaining money from or a benefit in any fraternal benefit society, shall upon conviction be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisonment in the county jail of not less than thirty (30) days nor more than one (1) year, or both.

(3)[~~(4)~~] Any person who wilfully makes a false or fraudulent statement in any verified report or declaration under oath required or authorized by subtitle 29 of this chapter, or of any material fact or thing contained in a sworn statement concerning the death or disability of a member for the purpose of procuring payment of a benefit named in the certificate, shall be guilty of perjury and shall be subject to the penalties therefor prescribed by law.

(4)[~~(5)~~] Any person who solicits membership for, or in any manner assists in procuring membership in, any fraternal benefit society not licensed to do business in this state shall upon conviction be fined not less than one hundred dollars ($100).

Section 41. KRS 304.99-100 is amended to read as follows:

The licenses of each solicitor, consultant, adjuster, surplus lines broker, agent, and fraternal benefit society agent may be continued or renewed under KRS 304.9-260 *and*[~~,~~] 304.9-270[~~, and 304.29-370~~] if the request for continuation or renewal is accompanied by a penalty equal to the amount of the biennial continuation or renewal fee specified in subtitle 4 of this chapter.

Section 42. The following KRS sections are repealed:

304.29-010 Fraternal benefit societies, defined.

304.29-015 Application of other subtitles.

304.29-020 Lodge system, defined.

304.29-030 "Premiums," "society," defined.

304.29-040 Representative form of government, defined.

304.29-050 Organization — Articles of incorporation — Contents — Signatures.

304.29-060 Organization — Preliminary certificate issued by commissioner — Bond.

304.29-070 Solicitation of members — Collection of advance premiums — Reports to commissioner.

304.29-080 Certificate of compliance — Authorization to transact business.

304.29-090 Constitution and laws of society — Adoption and amendment — Additional powers.

304.29-100 Corporate powers retained.

304.29-110 Voluntary associations.

304.29-120 Location of office — Place of meeting.

304.29-130 Conversion of fraternal benefit society into mutual life insurance company.

304.29-140 Qualifications for membership.

304.29-150 Amendments to articles of incorporation, constitution or bylaws.

304.29-160 Society may create, maintain and operate charitable, benevolent or educational institutions — Ownership, operation of funeral homes and undertaking establishments prohibited.

304.29-170 Exemption of individuals from liability.

304.29-180 Benefits.

304.29-190 Benefits on lives of children.

304.29-200 Nonforfeiture benefits, cash surrender values certificate loans and other options — Interest rates on loans.

304.29-210 Beneficiaries — Funeral benefits.

304.29-220 Benefits not liable to attachment, garnishment, other process.

304.29-230 The contract.

304.29-240 Filing of certificate, application, rider, indorsement forms with commissioner — Standard life benefit certificate provisions — Withdrawal of approval — Hearings.

304.29-250 Prohibited provisions in life benefit certificates.

304.29-260 Accident and health insurance certificates — Total and permanent disability insurance certificates — Filing and approval.

304.29-270 Waiver.

304.29-280 Re-insurance.

304.29-290 Licenses.

304.29-300 Foreign or alien society — Admission.

304.29-310 Injunction — Liquidation — Receivership of domestic society.

304.29-320 Suspension, revocation or refusal of license of foreign or alien society.

304.29-330 Insurance agents — Definition.

304.29-340 Insurance agents — License required.

304.29-350 Insurance agents — Payment of commissions prohibited except to licensed agents.

304.29-360 Insurance agents - Prerequisites of licenses.

304.29-370 Insurance agents — Issuance and renewal of licenses.

304.29-380 "Insurance agents" — Notice of termination of appointment filed with commissioner.

304.29-390 Insurance agents - Revocation, suspension of licenses.

304.29-400 Service of process on society.

304.29-410 Injunctions against societies.

304.29-420 Judicial review of commissioner's findings, decisions.

304.29-430 Funds.

304.29-440 Permissible investments.

304.29-450 Reports.

304.29-455 Application of KRS 304.2-205.

304.29-470 Valuations: reserves.

304.29-480 Valuations: deferred payments due under incurred claims, matured certificates.

304.29-490 Valuations — Standards — Certification of valuation, underlying data.

304.29-500 Examination of domestic societies.

304.29-510 Examination of foreign and alien societies.

304.29-520 Commissioner not to make public any financial statement, report or finding until society afforded opportunity to answer.

304.29-530 Misrepresentation — False or misleading statement prohibited.

304.29-540 Discrimination and rebates.

304.29-550 Taxation.

304.29-560 Exemptions.

304.29-570 Exemption of certain societies.

304.29-590 Unfair claims settlement by fraternal benefit society or agent prohibited.

Section 43. This Act shall become effective January 1, 1989.

HCR 62, A CONCURRENT RESOLUTION requesting and petitioning the Supreme Court of Kentucky to adopt amendments to the Kentucky Rules of Civil Procedure as proposed in the Report of the Kentucky Insurance and Liability Task Force.

WHEREAS, the Kentucky Insurance and Liability Task Force was created by House Joint Resolution 139 of the 1986 Regular Session of the General Assembly to study the insurance industry with special emphasis on the problems of availability and affordability of liability insurance; and

WHEREAS, in January of 1988 the Kentucky Insurance and Liability Task Force issued its findings and recommendations in Research Report Number 232 of the Legislative Research Commission; and

WHEREAS, the report of the Kentucky Insurance and Liability Task Force is the product of eighteen months of deliberation, study and debate; and reflects an effort to mold diverse philosophies and opinions into cohesive, workable, and lasting solutions which address the problems of insurance affordability and availability; and

WHEREAS, the Report of the Kentucky Insurance and Liability Task Force contains over thirty-five specific proposals for amendment of Kentucky statutes and Rules of Civil Procedure; and

WHEREAS, the 1988 Regular Session of the General Assembly will give careful consideration to those recommendations within the Report of the Kentucky Insurance and Liability Task Force which pertain to amendment of statutory law; and

WHEREAS, Section 116 of the Constitution of Kentucky authorizes the Supreme Court to prescribe rules of practice and procedure for the Court of Justice;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Supreme Court of Kentucky is respectfully requested and hereby petitioned to adopt amendments to the Kentucky Rules of Civil Procedure as proposed in the Report of the Kentucky Insurance and Liability Task Force, Research Report Number 232, Legislative Research Commission, issued January, 1988.

Section 2. The Legislative Research Commission shall mail a copy of this resolution to the Chief Justice of the Supreme Court of Kentucky, the clerk of the Supreme Court, and the Director of the Administrative Office of the Courts.

The Committee Substitute to **HCR 62** is as follows:

HCR 62, A CONCURRENT RESOLUTION requesting and petitioning the Supreme Court of Kentucky to adopt amendments to the Kentucky Rules of Civil Procedure as proposed in the Report of the Kentucky Insurance and Liability Task Force.

WHEREAS, the Kentucky Insurance and Liability Task Force was created by House Joint Resolution 139 of the 1986 Regular Session of the General Assembly to study the insurance industry with special emphasis on the problems of availability and affordability of liability insurance; and

WHEREAS, in January of 1988 the Kentucky Insurance and Liability Task Force issued its findings and recommendations in Research Report Number 232 of the Legislative Research Commission; and

WHEREAS, the report of the Kentucky Insurance and Liability Task Force is the product of eighteen months of deliberation, study and debate; and reflects an effort to mold diverse philosophies and opinions into cohesive, workable, and lasting solutions which address the problems of insurance affordability and availability; and

WHEREAS, the Report of the Kentucky Insurance and Liability Task Force contains over thirty-five specific proposals for amendment of Kentucky statutes and Rules of Civil Procedure; and

WHEREAS, the 1988 Regular Session of the General Assembly will give careful consideration to those recommendations within the Report of the Kentucky Insurance and Liability Task Force which pertain to amendment of statutory law; and

WHEREAS, Section 116 of the Constitution of Kentucky authorizes the Supreme Court to prescribe rules of practice and procedure for the Court of Justice;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Supreme Court of Kentucky is respectfully requested and hereby petitioned to adopt amendments to the Kentucky Rules of Civil Procedure as proposed in the Report of the Kentucky Insurance and Liability Task Force, Research Report Number 232, Legislative Research Commission, issued January, 1988, as modified by the General Assembly.

Section 2. The Legislative Research Commission shall mail a copy of this resolution and the proposed rules as modified to the Chief Justice of the Supreme Court of Kentucky, the clerk of the Supreme Court, and the Director of the Administrative Office of the Courts.

Motions, Petitions and Communications (continued)

Representative Morris moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Morris moved the adoption of the following **HR 138**:

HR 138, A RESOLUTION recognizing the University of Louisville Center for Applied Microcirculatory Research and Development as the Commonwealth Center for Applied Microcirculatory Research and Development.

WHEREAS, the University of Louisville Center for Applied Microcirculatory Research and Development has contributed to the advancement of scientific research and development in the Commonwealth of Kentucky; and

WHEREAS, the University of Louisville Center for Applied Microcirculatory Research and Development has attracted recognition from other Microcirculatory Research Centers around the world; and

WHEREAS, the University of Louisville Center for Applied Microcirculatory Research and Development has been designated by the state as a Center of Excellence; and

WHEREAS, the University of Louisville Center for Applied Microcirculatory Research and Development was instrumental in attracting the 1991 World Congress of Microcirculatory Research to Louisville and Kentucky; and

WHEREAS, the University of Louisville Center for Applied Microcirculatory Research and Development is a valuable asset to the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body hails and recognizes the University of Louisville Center for Applied Microcirculatory Research and Development as the Commonwealth Center for Applied Microcirculatory Research and Development.

Section 2. That the Clerk of the House of Representatives be directed to transmit copies of this resolution to Mr. Cary W. Blankenship, Strategic Development Associates, First Trust Centre, Suite 300 North, 200 South Fifth Street, Louisville, Kentucky, 40202.

HR 138 was adopted by voice vote.

Representative Priddy moved that the rules be suspended to waive the three day posting requirement on **HB 1002**. Agreed.

Representative Priddy moved that the rules be suspended to waive the three day posting requirement on **HB 1007**. Agreed.

Representative Guenthner moved that the rules be suspended to act upon **HCR 141**. Agreed.

Representative Guenthner moved that a call of the roll be taken to show co-sponsors of **HCR 141**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HCR 141**: Adams, Adkins, Allen, Ark, Arnold, Ballard, Barrows, Blandford, Bronger, M. Brown, Bruce, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Morris, Napier, Noe, Noland, Northup, O'Brien, Preston, Priddy, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, White, Will, Worthington.

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HR 143**:

HR 143. A RESOLUTION honoring Marlene Steele, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Marlene Steele as an exhibitor in "Kentucky Places" and wishes her continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Marlene Steele for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Ms. Marlene Steele, 1107 Holman Street, Covington, Kentucky, 41011.

HR 143 was adopted by voice vote.

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HR 144**:

HR 144, A RESOLUTION praising the city of Wilder the honorary third place winner of the "Governor's Competition for Excelling in Park Habilitation."

WHEREAS, this honorable body is pleased to acknowledge and recognize the vital importance of parks; and

WHEREAS, Kentucky takes great pride in its parks; and

WHEREAS, the city of Wilder is much smaller than the cities receiving first and second place awards for the "Governor's Competition for Excelling in Park Habilitation"; and

WHEREAS, the city of Wilder's award winning park habilitation includes new greenery, shelters, trails, plumbing, boat dock; and

WHEREAS, this park/marina belongs to the Corp of Engineers; and

WHEREAS, the Corp of Engineers leased the park/marina property to the city of Wilder for twenty-five years at no cost;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes Robert E. Schindler, Chief of Police and Chairman of the Recreation Department for his initiative and dedication.

Section 2. That the members of this honorable body recognize and commend the city maintenance department for their excellence.

Section 3. That the clerk of the House is directed to transmit copies of this resolution to Robert E. Schindler and the city maintenance department.

HR 144 was adopted by voice vote.

Representative P. Richardson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative P. Richardson moved the adoption of the following **HR 137**:

HR 137, A RESOLUTION honoring Holly Van Meter, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Holly Van Meter as an exhibitor in "Kentucky Places" and wishes her continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Holly Van Meter for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Ms. Holly Van Meter, 31 Bonnie Brook Lane, Winchester, Kentucky, 40391.

HR 137 was adopted by voice vote.

Representative P. Richardson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative P. Richardson moved the adoption of the following **HR 140**:

HR 140, A RESOLUTION honoring Ellen Glasgow, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Ellen Glasgow as an exhibitor in "Kentucky Places" and wishes her continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Ellen Glasgow for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Ms. Ellen Glasgow, Capital Gallery, 314 Lewis Street, Frankfort, Kentucky, 40601.

HR 140 was adopted by voice vote.

Representative Noe moved that the Committee on Rules be requested to recommit **HB 494** to the Committee on Education. Agreed.

Representative Noe moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Noe moved the adoption of Legislative Citations No. 80 and 81. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds Sister Mary Cullen coordinator of the Harlan County Literacy Council for your dedication and hard work over the years. The growth of the Literacy Program in your county has been commendable and can be attributed to the professionals who give so willingly of their time and talents to so worthwhile a cause.

The House of Representatives joins Representative Roger Noe in saluting you and wishing you much success in all your future endeavors.

The House of Representatives of the Commonwealth of Kentucky hereby cites and recognizes the Harlan County Literacy Council for the outstanding contributions made to the citizens of your county through the efforts of so many dedicated people. The gift of knowledge to someone who is striving to find a better way, is the beginning of a brighter future of personal growth. To provide such an opportunity for so many people is commendable.

The House of Representatives joins Representative Roger Noe in saluting you for your efforts.

Representative Johnson moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Johnson moved the adoption of the following **HR 139**:

HR 139, A RESOLUTION honoring Rex M. Robinson, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Rex M. Robinson as an exhibitor in "Kentucky Places" and wishes him continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Rex M. Robinson for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mr. Rex M. Robinson, Robinson Studio, 6913 Karns Grove Road, Philpot, Kentucky, 42366.

HR 139 was adopted by voice vote.

Representative Scorsone moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Scorsone moved the adoption of the following **HR 145**:

HR 145, A RESOLUTION honoring Paul Brett Johnson, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Paul Brett Johnson as an exhibitor in "Kentucky Places" and wishes him continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Paul Brett Johnson for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mr. Paul Brett Johnson, 331 Madison Place, Lexington, Kentucky, 40508.

HR 145 was adopted by voice vote.

Representative Geveden moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Geveden moved the adoption of Legislative Citation No. 79. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and cites John Turney Davie, a devoted son of Kentucky, for your many years of dedication to your family and your community. You have been a tireless public servant in every way. Serving as Sheriff of Fulton County, Young Democratic Chairman and Chairman of Fulton County Democratic Party from 1954 to the present, you have given untold hours of service to the Commonwealth. You have been honored by listings in Who's Who in American Politics, the National Register of Prominent Americans and the 3rd edition of Notable Americans. With Esther at your side, Turney, you have raised a son and a daughter and been blessed with five grandchildren and one great grandchild.

The House of Representatives joins Representative Charles Geveden in honoring you and thanking you for your contributions to Fulton County and the Commonwealth.

Representative Keith moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Keith moved the adoption of the following **HR 142**:

HR 142. A RESOLUTION honoring Michael Wheeler, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Michael Wheeler as an exhibitor in "Kentucky Places" and wishes him continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Michael Wheeler for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mr. Michael Wheeler, Box 226, Manchester, Kentucky, 40962.

HR 142 was adopted by voice vote.

Representative Bruce moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bruce moved the adoption of the following **HR 102**:

HR 102. A RESOLUTION urging the United States Congress to pass H.R. 2148 and S. 1109 requiring labeling of foods which contain tropical fats.

WHEREAS, the current labeling laws of the United States permit highly saturated tropical oils, such as palm, palm kernel, and coconut oils, to be labeled as "vegetable oils", even though such imported oils contain up to twice the saturated fatty acid content of corn, cottonseed, peanut, soybean and sunflower oils; and

WHEREAS, the characterizing of all vegetable oils without differentiating highly saturated "tropical oils" is misleading; and

WHEREAS, extensive advertising and educational programs have taught United States consumers that vegetable oils are nutritionally acceptable, however most United States consumers are unaware that tropical oils contain up to twice the saturated fatty acids which contribute to high serum (blood) cholesterol level, one of the major causes of coronary heart disease; and

WHEREAS, the Congress of the United States is considering passage of the tropical oils labeling act of 1987 (H.R. 2148 and S. 1109); and

WHEREAS, the provisions of identical House and Senate bills, H.R. 2148 and S. 1109, would amend the Federal Food, Drug and Cosmetic Act to require the label of foods containing palm, palm kernel or coconut oil to indicate specifically which oil is contained in the food; require the words "a saturated fat" to follow the names palm, palm kernel or coconut oil in ingredient lists of products containing tropical oils; and

WHEREAS, the provisions of identical House and Senate bills, H.R. 2148 and S.1109 also require the label of foods containing palm, palm kernel or coconut oil which claims that the food contains or is prepared with vegetable shortening, on the principal or side panel to: (1) Identify on the label making the claim which of the tropical oils is contained in the food and follow the name of the oil with the statement "a saturated fat;" and (2) List the fat content and saturated fat content of the food per serving;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Congress of the United States be urged to enact H.R. 2148 and S. 1109 and to require the label of foods containing palm, palm kernel or coconut oil to indicate specifically which oil is contained in the food; require the words "a saturated fat" to follow the names palm, palm kernel or coconut oil in ingredient lists of products containing tropical oils; and require the label of foods containing palm, palm kernel or coconut oil which claim that the food contains or is prepared with vegetable shortening on the principal or side panel to: (1) Identify on the label making the claim which of the tropical oils is contained in the food and follow the name of the oil with the statement "a saturated fat;" and (2) List the fat content and saturated fat content of the food per serving.

Section 2. That the Secretary of State shall deliver copies of this resolution by regular mail to the Honorable Wendell Ford and the Honorable Mitch McConnell, U.S. Senators, the Honorable Carroll Hubbard, Jr., the Honorable William H. Natcher, the Honorable Romano Mazzoli, the Honorable Jim Bunning, the Honorable Harold Rogers, the Honorable Larry J. Hopkins, and the Honorable Carl C. Perkins, U.S. Representatives; the Honorable Jim Wright, Speaker of the House; the Honorable Thomas S. Foley, House Majority Leader, the Honorable Robert H. Michel, House Minority Leader; the Honorable Robert Byrd, Majority Leader of the Senate; and the Honorable Robert Dole, Minority Leader of the Senate.

HR 102 was adopted by voice vote.

Representative White moved that the rules be suspended to act upon a Resolution. Agreed.

Representative White moved the adoption of the following **HR 146**:

HR 146. A RESOLUTION honoring former state representative Buford Thomas Clark.

WHEREAS, Buford Thomas Clark, of Barbourville, departed this life March 4, 1988, at the age of seventy-six; and

WHEREAS, Buford Thomas Clark served the citizens of Knox County and the Commonwealth of Kentucky for two terms in the state House of Representatives; and

WHEREAS, Buford Thomas Clark served the young people of the Corbin and Knox County school districts for more than twenty-five years as a teacher of English; and

WHEREAS, Buford Thomas Clark was a veteran of World War II, having served as a Captain in the United States Air Force and as a pilot with the Royal Canadian Air Force; and

WHEREAS, Buford Thomas Clark was an active leader in the civic affairs and in the service organizations of Knox County; and

WHEREAS, Buford Thomas Clark was a devoted husband and a loving father;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its grief upon receiving news of the passing of Buford Thomas Clark and extends its sympathy to his family.

Section 2. That when the House of Representatives adjourns this day, Wednesday, March 9, 1988, it does so in memory of Buford Thomas Clark.

Section 3. That a copy of this resolution be sent to Mrs. Buford Thomas Clark, of Walker Park Road, Barbourville.

HR 146 was adopted by voice vote.

Representative Morris moved that **HB 919** be reassigned to the Committee on Labor and Industry. Agreed.

Representative B. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that his vote be changed from "yea" to "nay" on **HB 662**. Agreed.

Representative Gregory moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Gregory moved that he be recorded as voting "nay" on **HB 441** and **HB 309**. Agreed.

Representative Will moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Will moved that he be recorded as voting "yea" on **HB 570**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 570**. Agreed.

Representative Robinson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Robinson moved that his vote be changed from "nay" to "yea" on **HB 796**. Agreed.

Representative B. Smith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative B. Smith moved that his vote be changed from "nay" to "yea" on **HB 436**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to **HB 293**, by Representative Morris:

Amend printed copy of **HB 293** on page 1, by inserting after line 16 the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) When a person under arrest refuses, upon request of a law enforcement officer, to submit to a chemical test provided for in KRS 186.565(1), and his license is neither suspended nor revoked, and he is not convicted of violating KRS 189A.010, the affidavit of refusal to submit to such test and his attendance at a driver's education program shall be confidential.

(2) If an insurance company receives such information, it shall be prohibited from using the information as a basis for denying insurance or to raise the insurance rates of such person.

(3) The provisions of subsection (1) of this section shall be retroactive so as to require any insurance company which has denied insurance or raised the rate of any person in violation of the provisions of this section, to reinstate the person's insurance or lower his rates to the previous rates."

Floor Amendment No. 1 to **HB 354**, by Representative Heleringer:

Amend printed copy of **HB 354** on page 14, after line 6, by inserting the following:

"(12) If any state police officer is charged, by the commissioner of state police or any other person, with inefficiency, misconduct, insubordination, a violation of law, or a violation of any regulation promulgated by the commissioner, he shall be entitled to a hearing before the trial board."

Floor Amendment No. 3 to Committee Substitute to **HB 378**, by Representative Callahan:

Amend printed copy of Committee Substitute for **HB 378** on page 42, line 19, after the "." insert the following: *"Upon completion of term as a judge or justice as described in this section, the person to whom a judicial plate was issued shall, within thirty (30) days, return the plate to the county clerk of the county of his residence."*

Floor Amendment No. 4 to Committee Substitute to **HB 378**, by Representative Gregory:

Amend printed copy of Committee Substitute to **HB 378** on page 4, line 24 after the word "vehicle" insert the following: *"with a gross weight of fourteen thousand (14,000) pounds or less"*;

On page 4, line 25, before the word "wrecking" by inserting the word "*wrecker*" and by placing brackets around the word "wrecking" and striking through the same;

On page 4, line 25, after the word "crane" by inserting the word "*or*" and by placing brackets around the word "and" and striking through the same;

On page 4, line 25, by placing an opening bracket before the word "an" and on page 4, line 26, by placing a closing bracket after the word "automobile" and striking through the same;

On page 5, line 4, after the word "a" by inserting the word "*wrecker*" and by placing brackets around the word "wrecking" and striking through the same;

On page 5, line 4, after the word "crane" by inserting the word "*or*" and by placing brackets around the word "and" and striking through the same;

On page 5, line 5, after the for "for" by placing brackets around the words "an automobile" and striking through the same;

On page 5, line 8, by placing brackets around the first word "automobile" and striking through the same; and

On page 5, line 8, after the "." insert the following language: "*If the gross weight of the vehicle exceeds fourteen thousand (14,000) pounds, the vehicle shall be registered in accordance with subsection (3) of this section. The gross weight of a vehicle used in wrecker service shall not include the weight of the vehicle being towed by the wrecker.*"

Floor Amendment No. 1 to Committee Substitute to **HB 452**, by Representative Kerr:

Amend printed copy of Committee Substitute to **HB 452** on page 179, lines 9-16, to delete the same and to insert in lieu thereof: "*(3) "Juvenile holding facility" means a physically secure setting, approved by the justice cabinet, which is an entirely separate facility or portion or wing of a building containing an adult jail, which provides total separation between juvenile and adult facility spatial areas and which is staffed exclusively by sufficient certified juvenile holding facility staff to provide twenty-four (24) hours per day supervision; and*"

Floor Amendment No. 2 to Committee Substitute to **HB 452**, by Representative Handy:

Amend printed copy of Committee Substitute to **HB 452** on page 57, line 7, following "procedure." to add "*In making the order the court may take into consideration the religious beliefs and practices of the child and his parents or guardian.*"

Floor Amendment No. 2 to **HB 505**, by Representative Overstreet:

Amend printed copy of **HB 505** on page 1, delete lines 1 through 21 in their entirety and insert in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Alcohol abuser" means an individual who has had two (2) or more alcohol related offenses, any one (1) of which resulted in conviction by a court or treatment in an alcohol abuse facility within three (3) years prior to the date of the application;

(2) "Commissioner" means the commissioner of the Kentucky state police;

(3) "Drug abuser" means an individual who has had two (2) or more violations of KRS Chapter 218A, any one (1) of which resulted in conviction by a court or treatment in a drug abuse facility within five (5) years prior to the date of application;

(4) "Firearm" means any weapon that is capable of or designed to or that may readily be converted to expel a projectile by means of an explosion;

(5) "Handgun" means any firearm:

(a) Designed or adapted so as to be aimed and fired from one (1) hand, regardless of barrel length; or

(b) Any firearm with:

1. A barrel less than sixteen (16) inches in length; or

2. An overall length of less than twenty-six (26) inches.

(6) "Proper person" means a person who does not:

(a) Have a conviction for resisting law arrest;

(b) Have a conviction for a crime for which he could have been sentenced for more than one (1) year;

(c) Have a record of being an alcohol or drug abuser as defined in this Act;

(d) Have documented evidence which would give rise to reasonable belief that he has a propensity for violent or emotionally unstable conduct;

(e) Make a false statement of material fact on his application;

(f) Have a conviction for any crime involving an inability to safely handle a handgun;

(g) Have a conviction for violation of the provisions of this Act within five (5) years of his application;

(7) "Proper reason" means for the defense of oneself or the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) A person desiring a license to carry a handgun concealed shall apply to:

(a) The chief of police or corresponding law enforcement officer of the municipality in which he resides;

(b) If that municipality has no such officer, or if the applicant does not reside in a municipality, to the sheriff of the county in which he resides after he has obtained an application form prescribed by the commissioner.

(2) The law enforcement agency which accepts an application for a concealed handgun license shall collect a ten dollar ($10.00) application fee, five dollars ($5.00) of which shall be refunded if the license is not issued. The fee shall be:

(a) Deposited into the law enforcement agency's firearms training fund or other appropriate training activities fund; and

(b) Used by the agency exclusively for the purpose of training law enforcement officers in the proper use of firearms or other law enforcement duties.

The state auditor shall establish rules for the proper accounting and expenditure of funds collected under this subsection.

(3) The officer to whom the application is made shall ascertain concerning the applicant his name, full address, length of residence in the community, whether his residence is located within the limits of any city or town, occupation, place of business or employment, criminal record, if any, and convictions (minor traffic offenses excepted), age, race, sex, nationality, date of birth, citizenship, height, weight, build, color of hair, color of eyes, scars and marks, whether the applicant has previously held a Kentucky license to carry a concealed handgun and, if so, the serial number of the license and year issued, whether his license has ever been suspended or revoked, and if so, the year and reason for the suspension or revocation, and the applicant's reason for desiring a license. The officer to whom the application is made shall conduct an investigation into the applicant's official records and verify thereby the applicant's character and reputation, and shall in addition verify for accuracy the information contained in the application, and shall forward this information together with his recommendation for approval or disapproval and one (1) set of legible and classifiable fingerprints of the applicant to the commissioner.

(4) The commissioner may make whatever further investigation he deems necessary. Whenever disapproval

is recommended, the officer to whom the application is made shall provide the commissioner and the applicant with his complete and specific reasons, in writing, for the recommendation of disapproval.

(5) If it appears to the commissioner that the applicant has a proper reason for carrying a concealed handgun and is of good character and reputation and a proper person to be so licensed, he shall issue to the applicant a qualified or an unlimited license to carry any handgun lawfully possessed by the applicant. The original license shall be delivered to the licensee. A copy shall be delivered to the officer to whom the application for license was made. A copy shall be retained by the commissioner for at least four (4) years. This license shall be valid for a period of four (4) years from the date of issue. The license of police officers, sheriffs or their deputies, and law enforcement officers of the United States government who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of service, shall be valid for the life of such individuals. However, such lifetime licenses are automatically revoked if the license holder does not remain a proper person.

(6) A license to carry a concealed handgun shall not be issued to any person who has been convicted of a felony or who is under eighteen (18) years of age. The commissioner shall prescribe by administrative regulation all forms to be used in connection with the administration of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) Licenses to carry concealed handguns shall be either qualified or unlimited. A qualified license shall be issued for hunting and target practice. The commissioner may adopt rules imposing limitations on the use and carrying of concealed handguns under a license when handguns are carried by a licensee as a condition of his employment. Unlimited licenses shall be issued for the purpose of the protection of life and property.

(2) In addition to the application fee, the fee for a qualified license shall be five dollars ($5.00), and the fee for an unlimited license shall be fifteen dollars ($15.00). These fees shall be deposited by the commissioner with the state treasurer. However, police officers, sheriffs or their deputies, and law enforcement officers of this state and the United States who have been honorably retired by a lawfully created pension board or its equivalent after twenty (20) or more years of active service, shall pay no fee for a qualified license or an unlimited license.

SECTION 4. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner may suspend or revoke any license issued under this Act if he has reasonable grounds to believe that the person's license should be suspended or revoked.

(2) Failure of a person to promptly return his license after written notice of suspension or revocation is a Class A misdemeanor.

(3) The commissioner shall establish administrative regulations concerning the procedure for suspending or revoking a person's license.

SECTION 5. A NEW SECTION OF KRS CHAPTER 237 IS CREATED TO READ AS FOLLOWS:

Every initial application under this Act shall be granted or rejected within sixty (60) days after the application is filed. If the application for renewal of an existing license is filed within thirty (30) days of its expiration, the existing license is automatically extended until the application for renewal is passed upon.

Section 6. KRS 527.020 is amended to read as follows:

(1) A person is guilty of carrying a concealed weapon when he carries concealed a firearm or other deadly weapon on or about his person.

(2) Peace officers, when necessary for their protection in the discharge of their official duties; United States mail carriers when actually engaged in their duties; and agents and messengers of express companies, when necessary for their protection in the discharge of their official duties, may carry concealed weapons on or about their person.

(3) Policemen directly employed by state, county, city or urban-county governments may carry concealed

deadly weapons on or about their person at all times within the Commonwealth of Kentucky, when expressly authorized to do so by the government employing the officer.

(4) *Persons authorized by Sections 1 through 4 of this Act may carry concealed handguns at any time and any location within the Commonwealth of Kentucky, unless the terms and conditions of their license specify to the contrary, in which case they may carry concealed handguns according to the terms and conditions of the license.*

(5) A deadly weapon shall not be deemed concealed on or about the person if it is located in a glove compartment, regularly installed in a motor vehicle by its manufacturer regardless of whether said compartment is locked, unlocked, or does not have a locking mechanism.

(6)[~~(5)~~] Carrying a concealed weapon is a Class A misdemeanor unless the defendant has been previously convicted of a felony in which a deadly weapon was possessed, used or displayed in which case it is a Class D felony."; and

On pages 2 through 7 to delete the language thereon in its entirety.

Floor Amendment No. 1 to Committee Substitute to **HB 551**, by Representative Farrow:

Amend printed copy of Committee Substitute to **HB 551** on page 1, line 3 by deleting "*, including products*";

On page 1, line 4 by deleting "*liability actions,*".

Floor Title Amendment to **HB 586**, by Representative Lundergan:

Amend printed copy of **HB 586** by amending the Title to read as follows:

"AN ACT relating to child support recovery and declaring an emergency."

Floor Amendment No. 1 to **HB 586**, by Representative Geveden:

Amend printed copy of **HB 586** on page 3, line 17, after "*social security,*" insert "*proceeds derived from state lottery winnings,*".

Floor Amendment No. 2 to **HB 586**, by Representative Lundergan:

Amend printed copy of **HB 586** on page 1, delete lines 1-21 in their entirety and insert in lieu thereof the following:

"Section 1. KRS 205.710 is amended to read as follows:

As used in KRS 205.715 to 205.800, unless the context clearly dictates otherwise:

(1) "Cabinet" shall mean the cabinet for human resources;

(2) "Secretary" shall mean the secretary of the cabinet for human resources;

(3) "Court order" shall mean any judgment, decree, or order of the courts of this state or any other state. *For the purposes of this Act, it shall also include an order of an authorized administrative body;*

(4) "Dependent child" or "needy dependent child" shall mean any person under the age of eighteen (18) who is not otherwise emancipated, self-supporting, married or a member of the armed forces of the United States and is a recipient of or applicant for *services under Part D of Title IV of the Social Security Act* [~~public assistance~~];

(5) "Duty of support" shall mean any duty of support imposed or imposable by law or by court order,

decree or judgment, whether interlocutory or final, and includes the duty to pay arrearages of support past due and unpaid in addition to medical support whenever health care coverage is available at a reasonable cost;

(6) [~~"Parent" shall mean the biological or adoptive parents and includes the father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this state;~~

~~(7)~~] "Recipient" shall mean a relative or payee within the meaning of the Social Security Act and federal and state regulations who is receiving public assistance on behalf of a needy dependent child; and.

(7) [~~(8)~~] "Consumer reporting agency" means any person *or organization* which, for monetary fees, dues, or on a cooperative nonprofit basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and which uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports*;* [~~.~~]

(8) "Obligor" means a parent who has an obligation to provide support;

(9) "Employer" means any individual, sole proprietorship, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state or any other legal entity which hires and pays an individual for his services;

(10) "Income" means but is not limited to any of the following:

(a) Commissions, earnings, salaries, wages, and other income due or to be due in the future from his employer and successor employers;

(b) Any payment due or to be due in the future from a profit-sharing plan, pension plan, insurance contract, annuity, social security, unemployment compensation, supplemental unemployment benefits, and workers' compensation; and

(c) Any amount of money which is due to the obligor under a support order as a debt of any other individual, partnership, association, or private or public corporation, the United States or any federal agency, this state or any political subdivision of this state, any other state or a political subdivision of another state, or any other legal entity which is indebted to the obligor;

(11) "Earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and notwithstanding any other provision of law exempting such payments from garnishment, attachment or other process to satisfy support obligations and specifically includes periodic payments from pension and retirement programs and insurance policies of any kind. Earnings shall include all gain derived from capital, from labor or both, including profit gained through sale or conversion of capital assets and unemployment compensation benefits, or any other form of monetary gain. The term "disposable earnings" means that part of earnings remaining after deductions of any amounts required by law to be withheld;

(12) "Enforce" means to employ any judicial or administrative remedy under KRS 405.400 to 405.530 or under any other Kentucky law;

(13) "Need" includes, but is not limited to, the necessary cost of food, clothing, shelter and medical care. The amount determined under the suggested minimum support obligation scale shall be rebuttably presumed to correspond to the parent's ability to pay and the need of the child. A parent shall be presumed to be unable to pay child support from any income received from aid to families with dependent children, supplemental security income or other continuing public assistance;

(14) "Parent" means a biological or adoptive mother or father of a child born in wedlock or a father of a child born out of wedlock if paternity has been established in a judicial proceeding or in any manner consistent with the laws of this or any other state, whose child is entitled to support, pursuant to court order, statute or administrative determination; and

(15) "Real and personal property" includes all property of all kinds, including but not limited to, all gain derived from capital, labor or both; compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus or otherwise; periodic payments from pension and retirement programs; and unemployment compensation and insurance policies.

SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The division of child support enforcement is established in the cabinet for human resources.

(2) The duties of the division of child support, or its designee, shall include:

(a) Serve as state agency authorized to administer Part D of Title IV of the Social Security Act, 42 U.S.C. 651 to 667;

(b) Serve as the information agency as provided in the uniform reciprocal enforcement of support act, KRS Chapter 407;

(c) Serve as collector of all court-ordered or administratively ordered child support payments pursuant to Part D of Title IV of the Social Security Act; and

(d) Enforce Kentucky child support laws, including collection of court-ordered child support arrearages and prosecution of persons who fail to pay child support.

(3) The cabinet shall establish a system to receive and process all child support payments. The system shall include compatible computer systems to record the payments. After the establishment of the compatible computer child support collection system, the cabinet or its designee, shall serve as collector of all court-ordered or administratively-ordered child support payments pursuant to Part D of Title IV of the Social Security Act.

(4) Where establishment of paternity and enforcement and collection of child support is by law the responsibility of local officials, the cabinet shall refer cases to the appropriate official for such action. The cabinet may enter into cooperative arrangements with appropriate courts and law enforcement officials to assist the cabinet in administering the program of child support recovery, including the entering into of financial arrangements with such courts and officials as provided for under the provisions of federal law and regulations. The local county attorney shall be considered the designee of the cabinet for purposes of administering the program of child support recovery within a county, subject to the option of the county attorney to decline such designation. Nothing in this section shall prevent the secretary from taking such action, with prior written notice, as appropriate if the terms and conditions of the cooperative agreement are not met.

Section 3. KRS 205.715 is amended to read as follows:

The payment of public assistance to or on behalf of a dependent child *shall create* [~~creates~~] a debt due and owing the state by the parent or parents of the child. *If* [~~; provided, however, that where~~] a court has ordered child support incident to a final divorce decree or other final order for child support, the debt shall be limited to the amount specified in the decree or order.

Section 4. KRS 205.735 is amended to read as follows:

All business concerns doing business in this state, to the extent that they have employes working within this state, or maintain personnel files within this state, or are incorporated under the laws of this state, *shall* [~~are required to~~] provide the cabinet with the following information upon certification by the secretary that the information is for the purpose of locating a parent and that the information obtained will be treated as confidential information by this cabinet or the agency or cabinet of any other state which administers the *child support enforcement program pursuant to Part D of Title IV of the Social Security Act* [~~public assistance program~~] for the other state: full name, social security account number, date of birth, home address, wages, and number of dependents listed for tax purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) After the effective date of this Act, each support order entered by a court of competent jurisdiction

shall provide for income withholding, which shall begin immediately except for good cause shown. If good cause is shown, income withholding shall take effect when the obligor does not provide support in the amount due and an arrearage has accrued that is equal to the amount of support payable for one (1) month, as determined by the cabinet or its designee.

(2) Each support order entered by a court of competent jurisdiction prior to the effective date of this Act shall be deemed to provide for an order of income withholding by operation of law. Income withholding shall take effect when the obligor is not providing support in the amount due and an arrearage has accrued that is equal to the amount of support payable for one (1) month, as determined by the cabinet.

(3) Prior to an initiation of income withholding, the cabinet shall send notice of the provisions of this section by certified mail, personal service or service as provided under Rule 4 of the Kentucky Rules of Civil Procedure to each obligor under a support order entered by a court of competent jurisdiction, giving notice that the income withholding shall take effect and that the obligor shall have ten (10) days to contest the income withholding.

SECTION 6. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

When a withholding order becomes final, the cabinet shall immediately send by certified mail to the employer of the obligor or any other person who is indebted to the obligor, a copy of the income withholding order or support order. Upon receipt of service, the employer or debtor of obligor shall be bound by the order. The employer or debtor of obligor may deduct the sum of one dollar ($1) for each payment made pursuant to the order to cover its administrative expenses. The order shall have priority as against any attachment, execution or wage assignment, unless otherwise ordered by the court. No order of income withholding or support order served on an employer shall constitute grounds for dismissal of the employe, refusing to employ, or taking disciplinary action against any obligor subject to withholding under this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) The obligor shall give the name, address and social security number or federal employer identification number of his employer or debtor of obligor to the cabinet at the time the order of income withholding or support order is issued or at the time the obligor receives notice of the entry of a support order, and shall immediately notify the cabinet of the name and address of any subsequent employer or debtor of obligor.

(2) An employer or debtor who has been served with a withholding order shall notify the cabinet if the obligor's income from that source is terminated, and provide the name and address of obligor's new employer, if known, or debtor, if known.

Section 8. KRS 205.745 is amended to read as follows:

(1) A child support lien in favor of the cabinet shall attach to all personal and real property of the *obligor* [~~responsible parent~~] if he has failed to make child support payment in an amount equal to support payable for one (1) month.

(2) The cabinet shall file its claim of lien within *three (3) years* [~~one (1) year~~] from the time it attaches to the property of the parent. The claim of lien shall be filed with the county clerk of the county in which the property is located and shall state as follows: "The Commonwealth of Kentucky, by the cabinet for human resources, claims a lien in the amount of ...... on the (describe property) of (name of *obligor* [~~parent~~]) for child support owed to *obligor's* [~~his~~] dependent children or for such public assistance moneys as may have been paid to *obligor's* [~~his~~] children by the cabinet for human resources."

(3) The cabinet shall notify the *obligor* [~~responsible parent~~] of the filing of its claim of lien.

Section 9. KRS 205.750 is amended to read as follows:

(1) Child support payments made pursuant to a court order shall be made through a domestic relations clerk of the county or other *person or agency* [~~county officer~~] designated by the court to receive [~~such~~] payments and paid to the cabinet upon notice by the cabinet to the court and the *obligor* [~~parent~~] that the child is a recipient of [~~public assistance or~~] services pursuant to Title IV-D of the Social Security Act.

(2) Payment of support payments by the obligor directly to a child who is receiving public assistance after the obligor has been notified pursuant to subsection (1) of this section does not abate the obligor's support obligation to the cabinet.

Section 10. KRS 205.767 is amended to read as follows:

(1) The cabinet shall require a parent in appropriate cases to give security, post bond, or give some other guarantee to secure payment of overdue support.

(2) The cabinet shall provide advance notice to the *obligor* [~~parent~~] regarding the delinquency of the support payment and the requirement of posting security, bond or guarantee. The *obligor* [~~parent~~] shall be notified of his rights and methods available to contest the impending action in compliance with due process of law and administrative regulations.

Section 11. KRS 205.768 is amended to read as follows:

(1) The cabinet shall make information available to consumer reporting agencies upon their request regarding the amount of overdue support owed by a parent in cases where the overdue support exceeds one thousand dollars ($1,000). Amounts less than one thousand dollars ($1,000) may be reported by the cabinet upon request by the consumer reporting agency.

(2) The cabinet shall provide advance notice to the *obligor* [~~parent who owes the support~~] concerning the proposed release of the information to the consumer reporting agency and inform the *obligor* [~~parent~~] of the methods available to contest the accuracy of the information in compliance with due process of law.

(3) The cabinet may charge the consumer reporting agency a fee not to exceed the actual cost of providing the information.

Section 12. KRS 205.769 is amended to read as follows:

(1) In cases deemed appropriate pursuant to established guidelines, the cabinet shall refer for state income tax refund offset verified amounts which are owed for overdue child supports where services are being provided by the cabinet pursuant to Title IV-D of the Social Security Act.

(2) In non-public assistance cases, the custodial parent shall be notified in advance if any offset amount will be first used to satisfy any unreimbursed public assistance payments which have been provided to the family.

(3) Written notice in advance shall be provided the *obligor* [~~parent~~] of the referral for state income tax refund offset together with the opportunity to contest the referral pursuant to procedures which are in compliance with the state's procedural due process requirements.

(4) If the offset amount is found to be in error or to exceed the amount of overdue support, the cabinet shall promptly refund the excess amount pursuant to established procedures.

(5) The cabinet may charge a reasonable fee to cover the cost of collecting overdue support using the state tax refund offset.

(6) The revenue cabinet shall notify the cabinet of the parent's home address and social security number or numbers. The cabinet shall provide this information to any other state involved in enforcing the support order.

Section 13. KRS 205.770 is amended to read as follows:

(1) *If* [~~Whenever~~] a child is receiving *services under Part D of Title IV of the Social Security Act* [~~public assistance~~] and the cabinet has taken action under the provisions of *this Act* [~~KRS 205.710 to 205.800~~] to obtain support on behalf of the child, matters concerning custody of the child and visitation rights of the parents shall not be used by either parent as a reason not to pay child support to the cabinet.

(2) Upon a determination by the cabinet that such would be in the best interest of the child, the cabinet may petition a circuit court of proper jurisdiction in the name of the child to make a determination of child custody and visitation rights of a parent.

Section 14. KRS 205.780 is amended to read as follows:

At any time prior to a child's twenty-first birthday, the cabinet may institute a legal action against *an obligor* [~~a responsible parent~~] for the reimbursement of money paid by the cabinet for the benefit of the child through the public assistance programs.

Section 15. KRS 205.785 is amended to read as follows:

(1) It shall be unlawful for anyone to knowingly refuse to give the secretary the name of a parent of a child for whom *services are being provided under Part D of Title IV of the Social Security Act* [~~the department is providing public assistance~~] or information which will assist the secretary in locating a parent of a child.

(2) Any information gathered pursuant to subsection (1) of this section shall *not* [~~under no circumstances~~] be used in criminal prosecutions against the informant.

(3) It shall be unlawful for anyone to knowingly give the secretary the incorrect name of a parent of a child or to knowingly give the secretary incorrect information on the parent's whereabouts when it is done for the purpose of concealing the identity of the real parent of the child or when it is done with the intent of concealing the location of the parent.

(4) Failure to provide information as required in subsection (1) of this section or providing incorrect information as prohibited in subsection (3) of this section shall constitute a class A misdemeanor.

Section 16. KRS 205.790 is amended to read as follows:

The procedures, actions and remedies provided for in this *Act* [~~chapter~~] shall be in addition to and not in substitution of other proceedings provided by law.

Section 17. KRS 205.175 is amended to read as follows:

(1) All letters, reports, communications, and other matters, written or oral, to the cabinet or any of its agents, representatives, or employes, or to any board or official functioning under this *Act* [~~chapter~~] which have been written, sent or made in connection with the requirements and administration of the cabinet shall be absolutely privileged and shall not be the subject matter or basis for any suit for slander or libel in any court but no person testifying before the secretary or his duly authorized representative shall be exempt from punishment for perjury.

(2) Information obtained shall not be published or be open for public inspection except that necessary information and records may be furnished to:

(a) Public employes in the performance of their duties in connection with the administration of the public assistance *or child support enforcement* program *pursuant to Part D of Title IV of the Social Security Act;*

(b) All law enforcement agencies including county attorneys, commonwealth's attorneys, district and circuit court judges and grand juries in discovering and prosecuting cases involving fraud;

(c) Duly elected members of the general assembly of the Commonwealth of Kentucky and the Congress of the United States in connection with their duties as members of such legislative bodies, but such information shall be limited to cases of individual constituents of the legislator, who have requested information regarding their application or grant, as specified in the inquiry by such legislator;

(d) Any interested party at a hearing before the secretary or his duly authorized representative to the extent necessary for the proper presentation of his case; provided, that any names or information obtained through access to such records shall not be used for any commercial or political purposes; and

(e) Any bank, savings and loan association, credit union, or other financial institution to the extent necessary to ascertain or confirm information submitted by the applicant or recipient and used to make eligibility or benefit determinations.

(3) Information regarding a public assistance applicant or recipient may also be released, in the discretion of the secretary or those he may designate, to such individuals or agencies as meet the requirements of regulations promulgated by the secretary and who are supplying or cooperating in securing services, employment or training for the applicant or recipient of public assistance.

(4) The unauthorized use by any employe of the cabinet of information obtained pursuant to KRS 205.835 is prohibited.

SECTION 18. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the department of law the child support enforcement commission which shall consist of nine (9) members as prescribed below:

(a) The attorney general, or his designee, who shall also serve as chairman;

(b) The secretary of the cabinet for human resources, or his designee, who shall also serve as vice chairman;

(c) The director of the administrative office of the courts, or his designee;

(d) The director of the division for child support enforcement within the cabinet for human resources; and

(e) The remaining five (5) members shall be appointed by the governor for terms of four (4) years except that the initial appointments shall be made in the following manner: One (1) member for two (2) years, two (2) members for three (3) years, and two (2) members for four (4) years. Each member shall serve until a successor is named and any appointment, due to vacancy, shall be for the unexpired term. The remaining five (5) members shall be appointed in the following manner: three (3) members from a list of nine (9) nominees submitted by the Kentucky county attorney association, with one (1) of the three members representing either a first class or urban county government, and two (2) citizen-at-large members.

(2) The secretary of the cabinet shall reimburse to the department of law such an amount as incurred related to the function of the commission. The secretary shall provide such information as may be requested by the commission.

(3) The commission shall meet at least quarterly and may meet additional times as may be deemed necessary by the chairman.

(4) Reimbursement for actual travel expenses shall be paid by the department of law for commission members, if members are not otherwise eligible for such reimbursement from their respective agency.

(5) The commission shall have the following responsibilities:

(a) Advise the governor on any issue related to the child support program;

(b) Advise the cabinet for human resources on any issue related to the child support program;

(c) Advise the department of law on any issue related to the child support program;

(d) Advise the administrative office of the courts on any issue related to the child support program;

(e) Provide a regular forum for all parties involved in the child support program to address any aspect of the administrative or judicial process;

(f) Develop and prepare reports and recommendations related to administrative procedures, prosecution,

judicial procedures, state or federal legislation; or any other matters which might improve program effectiveness and efficiency; and

(g) Initiate recommendations to facilitate interaction between local officials and the cabinet.

(6) The commission shall prepare and issue an annual report not later than August 15 of each year for the preceding fiscal year which includes a performance assessment for all aspects of the program. The report shall include recommendations to improve performance and service delivery. The report shall be submitted to the governor and the legislative research commission. The first report shall be due August 15, 1989.

Nothing in this section shall be construed as modifying the designation of the single state agency as required under the Federal Title IV-D plan.

SECTION 19. A NEW SECTION OF KRS CHAPTER 405 IS CREATED TO READ AS FOLLOWS:

The definitions provided in Section 1 of this Act shall be applicable to KRS 405.400 to 405.530, unless the context requires otherwise.

Section 20. KRS 405.430 is amended to read as follows:

(1) When a parent who fails to support *a* [~~his~~] child is not obligated to provide child support by court order, the cabinet may determine the parent's minimum monthly support obligation based on scales and ranges it shall develop by regulation, which shall take into account:

(a) The child's needs;

(b) [~~The parent's locality of residence;~~

~~(c)~~] The *parents'* [~~parent's~~] gross income;

(c)[~~(d)~~] The *parents'* [~~parent's~~] assets;

(d)[~~(e)~~] The *parents'* [~~parent's~~] needs; and

(e)[~~(f)~~] Any other factors the cabinet deems relevant.

(2) The cabinet may modify a parent's minimum monthly support obligation as established by the cabinet on its own or upon a parent's petition, but only upon a finding of the conditions described in KRS 403.250 for judicial modification of a support order.

(3) In establishing a parent's minimum monthly support obligation, the cabinet may utilize information about the parent and child which it has good reason to believe is reliable.

(4) Copies of the *minimum support obligation scale* [~~scales~~] shall be made available to the courts, county offices, prosecuting attorneys, and, upon request, to any other state or county office or agency in any way engaged in child support collection and enforcement.

Section 21. KRS 405.460 is amended to read as follows:

(1) When *an arrearage has accrued that is equal to the amount of support payable for one (1) month* [~~a parent is one (1) month delinquent on paying the full obligation~~] on court-ordered or administratively determined child support, *which was set prior to July 15, 1988,* the cabinet may use judicial or administrative remedies to enforce the support obligation without the necessity of any action by a hearing officer.

(2) In cases where the *obligor* [~~parent~~] has not requested a dispute hearing, action to collect the debt may be taken twenty (20) days after the *obligor's* [~~debtor's~~] receipt of the notice of support obligation or his refusal to accept the notice.

Section 22. KRS 405.465 is amended to read as follows:

(1) *If, prior to July 15, 1988,* [~~In any proceeding where~~] the court has ordered either or both parents to pay any amount for the support of a minor child and *an arrearage has accrued that is equal to the amount of support payable for one (1) month* [~~the full obligation is one (1) month delinquent~~], upon a finding by the court that *an arrearage has accrued that is equal to the amount of support payable for one (1) month* [~~the full obligation is one (1) month delinquent~~], the court shall order either parent or both parents to assign to the domestic relations clerk of the county or other officer designated by the court to receive *the* [~~such~~] payment, that portion of salary or wages of either parent due and to be due in the future as will be sufficient to pay the amount ordered by the court *plus interest at the legal rate on the arrearage, if any,* for the support, maintenance and education of the minor child. *If the support order was issued after July 15, 1988, assignment of support payments shall begin immediately except for good cause shown as determined by the court. If good cause is shown, income withholding shall take effect when the obligor does not provide support in the amount due and an arrearage has accrued that is equal to the amount of support payable for one (1) month, as determined by the cabinet or its designee.*

(2) *The* [~~Such~~] order shall be binding upon the employer or any subsequent employer upon the service by certified mail of a copy of *the* [~~such~~] order upon *the* [~~such~~] employer and until further order of the court. *The employer may deduct the sum of one dollar ($1) for each payment made pursuant to the order.*

(3) Any [~~such~~] assignment made pursuant to court order shall have priority as against any attachment, execution or other assignment, unless otherwise ordered by the court.

(4) No assignment under this section by an employe shall constitute grounds for dismissal of the *obligor* [~~employe~~], *refusal* [~~refusing~~] to employ, or taking disciplinary action against any *obligor* [~~parent~~] subject to withholding required by this section.

(5) Nothing within this section shall preclude a court from ordering a wage assignment prior to any arrearages as the court deems proper.

Section 23. KRS 405.467 is amended to read as follows:

(1) In any case *determined before July 15, 1988, in which* [~~where~~] a parent is required to pay court-ordered or administratively determined child support and an arrearage accrues that is equal to the amount of support payable for one (1) month, the secretary shall issue an order for withholding of earnings of the parent as is necessary to comply with the order *plus interest at the legal rate on the arrearage, if any.* Said payments shall be made through the domestic relations clerk of the county or other county officer designated by the court to receive such payment. *If the support order was issued after July 15, 1988, withholding of support payments shall begin immediately except for good cause shown. If good cause is shown as determined by the court or administrative agency issuing the order, income withholding shall take effect when the obligor does not provide support in the amount due.*

(2) Advance notice shall be sent to the *obligor* [~~parent~~] prior to the issuance of the order to withhold earnings. The notice shall advise the *obligor* [~~parent~~] of the proposed withholding and the procedures to follow to contest the withholding. The only basis for contesting the withholding *shall be* [~~is~~] a mistake of fact, which means an error in the amount of current or past-due support or the identity of the parent.

(3) If the parent contests the withholding, the cabinet shall give the *obligor* [~~parent~~] an opportunity to present his case and decide if the withholding will occur, based on an evaluation of the facts within forty-five (45) days from the date of the advance notice. The cabinet shall notify the *obligor* [~~parent~~] of the decision of whether the withholding is to occur, the date on which it will begin, and shall furnish the *obligor* [~~parent~~] with the information contained in any order served on the employer with respect to the withholding.

(4) The cabinet shall serve the order to withhold earnings on the employer of *an obligor* [~~a parent~~] by certified mail, return receipt requested. The order shall state the amount to be withheld, including amounts to be applied to arrearages, *plus interest at the legal rate on the arrearage, if any,* and the date the withholding is to begin. The total amount to be withheld, including current support and payment on arrearages *plus interest,* may not exceed the limit permitted under federal law.

(5) The employer shall be held liable to the cabinet for any amount which the employer fails to withhold from earnings due an *obligor* [~~employer~~] following receipt of an order to withhold earnings.

(6) Any order to withhold earnings under this *section* [~~subsection~~] shall have priority as against any attachment, execution or other assignment, notwithstanding any state statute or regulation to the contrary.

(7) No withholding under this section shall be grounds for discharging from employment, refusing to employ, or taking disciplinary action against any *obligor* [~~parent~~] subject to withholding required by this section.

(8) The remedies provided for in this section shall also be available for applicable support orders issued in other states.

(9) Interstate requests for withholding of earnings shall be processed by the cabinet [~~unless local officials as defined in KRS 205.800 specifically request authority to process those requests~~].

Section 24. KRS 405.470 is amended to read as follows:

(1) The secretary may collect delinquent child support by issuing an order to withhold and deliver earnings or property of any kind, real and personal, which the secretary has reason to believe are due, owing or belonging to the parent.

(2) Fifty percent (50%) of the disposable earnings against which a support debt is asserted shall be exempt and may be delivered to the *obligor* [~~parent~~]. The only other exemptions allowed shall be those provided in KRS [~~427.030, 427.040 and~~] 427.060.

(3) The order shall continue to operate until the child support debt is paid in full and shall take priority over all other debts and creditors of such debtor.

Section 25. KRS 405.480 is amended to read as follows:

(1) An order to withhold and deliver shall be personally served or mailed by certified mail, return receipt requested, on the person in possession or control of the property and the *obligor* [~~parent~~].

(2) The order shall state the basis for and the amount of the support debt and that the *obligor* [~~person in possession or control of the property~~] may offer a bond satisfactory to the cabinet to avoid losing possession of the property.

Section 26. KRS 405.490 is amended to read as follows:

(1) Any person who has been served with an order to withhold and deliver *obligor's* property shall answer the order within twenty (20) days.

(2) The person in possession of any *obligor's* property shall withhold it and deliver it to the cabinet in accordance with the secretary's directions; or the *obligor* [~~parent~~] may offer a bond which is satisfactory to the cabinet.

(3) The person in possession of *obligor's* property shall have no liability or further responsibility after fulfilling *the* [~~his~~] duties under this section.

(4) When property or a bond is released to the secretary pursuant to an order to withhold and deliver property, the secretary shall hold the property or bond, pending final determination of the *obligor's* [~~parent's~~] liability by a court of competent jurisdiction.

Section 27. KRS 405.500 is amended to read as follows:

(1) Whenever *this Act requires* [~~KRS 405.400 to 405.530 require~~] delivery of a notice or other communication in person or by certified mail, return receipt requested, receipt shall be rebuttably presumed if the *obligor* [~~parent~~] or any other adult with apparent authority at the *obligor's* [~~parent's~~] address signs a receipt or if the *obligor* [~~parent~~] or other adult refuses to accept the notice or communication.

(2) In the case of a notice to withhold and deliver property served on a person in possession or control of property, receipt shall be rebuttably presumed if the person to whom the order is directed signs or refuses to sign a receipt or if his employe, agent or other adult with apparent authority signs or refuses to sign a receipt.

Section 28. KRS 405.510 is amended to read as follows:

Persons holding earnings or real or personal property in Kentucky of *obligors* [~~parents~~] who owe child support shall honor valid orders of other states' courts to enforce child support obligations.

Section 29. KRS 405.520 is amended to read as follows:

The cabinet may promulgate regulations to implement the provisions of *this Act* [~~KRS 405.400 to 405.530~~]. *The cabinet may adopt regulations necessary to prevent conflict with federal laws and regulations or the loss of federal funds and to establish procedures necessary to guarantee due process of law.*

Section 30. KRS 530.050 is amended to read as follows:

(1) A person is guilty of nonsupport*:*

(a) when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide to a minor or *to a* child adjudged mentally disabled, indigent spouse or indigent parent*; or*

(b) Upon a finding that a defendant obligor, subject to court order to pay any amount for the support of a minor child, is delinquent in meeting the full obligation established by such order and has been so delinquent for a period of at least two (2) months duration.

(2) A person is guilty of flagrant nonsupport when he persistently fails to provide support which he can reasonably provide and which he knows he has a duty to provide by virtue of a court or administrative order to a minor or *to a* child adjudged mentally disabled, indigent spouse or indigent parent *and the failure results in:*

(a) An arrearage of not less than one thousand dollars ($1,000); or

(b) Six (6) consecutive months without payment of support; or

(c) The dependent having been placed in destitute circumstances. For the purposes of this paragraph, it shall be prima facie evidence that a dependent has been placed in destitute circumstances if the dependent is a recipient of public assistance as defined in KRS 205.010 [~~thereby leaving said dependent in destitute circumstances~~].

(3) A person has a duty to provide support for an indigent spouse, [~~and for~~] a minor *child or children,* or *a* child *or children* adjudged mentally disabled and, for purposes of this section, is presumed to know of that duty.

(4) Any person who is eighteen (18) years of age or over, residing in this state and having in this state a parent who is destitute of means of subsistence and unable because of old age, infirmity, or illness to support himself or herself, has a duty to provide support for such parent and, for purposes of this section, is presumed to know of that duty.

(5) Nonsupport is a Class A misdemeanor. *For a second offense, the person shall receive a minimum sentence of seven (7) days in jail. For a third or any subsequent offense, the person shall receive a minimum sentence of thirty (30) days in jail.*

(6) Flagrant nonsupport is a Class D felony.

Section 31. KRS 403.215 is amended to read as follows:

After July 15, 1988, [~~In~~] any new or modified order or decree which contains provisions for the support of a minor child *or minor children,* the order or decree shall include a provision that *if* [~~whenever~~] an arrearage accrues that is equal to the amount of support payable for one (1) month, a wage assignment pursuant to KRS 405.465 may issue.

SECTION 32. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Any person who violates any of the provisions of KRS 205.170 or subsections (1) to (3) of KRS 205.175 shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200) or imprisoned for not more than six (6) months or both.

SECTION 33. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

In a county containing a city of the first class, the provisions of KRS 454.140 notwithstanding, including those provisions related to priority of other officers, all forms of legal process may be served in any child support action by a constable of the county upon direction by the initiating party. A constable shall not be automatically deemed an interested party in litigation merely by virtue of serving process on behalf of the Commonwealth.

Section 34. Whereas, it is imperative that the Kentucky program of child support recovery receive prompt and detailed study and analysis in order to ensure compliance with federal child support enforcement mandates, an emergency is declared to exist and Section 18 this Act shall become effective on May 1, 1988.

Section 35.": and

On pages 2 through 37, delete the language thereon in its entirety; and

On page 38, delete line 1 in its entirety; and

On page 38, line 2, delete "Section 42."

Floor Amendment No. 1 to **HB 589**, by Representative B. Jones:

Amend printed copy of **HB 589** on page 8, after line 14, add the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

Such monies as are assessed, collected and deposited into the Kentucky conservation and recreation land acquisition fund shall not exceed ten million dollars ($10,000,000) in the aggregate at any one time. If the monies deposited in the fund exceed ten million dollars ($10,000,000), assessment and collection shall be suspended until such time as the Kentucky conservation and recreation land acquisition board shall certify that the fund balance has dropped below the level of ten million ($10,000,000)."

Floor Amendment No. 2 to **HB 589**, by Representative M. Brown:

Amend printed copy of **HB 589** on page 8, after line 14, by inserting the following:

"SECTION 7. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 15, 1993 the provisions of this Act shall be repealed.

(2) On or before July 15, 1993 the board shall present to the governor and the legislative research commission a plan for long-term state acquisition of wetlands and natural areas."

Floor Amendment No. 3 to **HB 589**, by Representative M. Brown:

Amend printed copy of **HB 589** on page 1, line 19, by inserting after the word "*agriculture,*" the following: "*who shall serve as chairperson,*"; and

On page 2, line 4, by deleting all the language after the word "*and*" and by inserting the following: "*a representative of the environmental quality commission*"; and

On page 2, line 5, by deleting the following: "*appointed by the governor*".

Floor Amendment No. 1 to **HB 627**, by Representative Morris:

Amend printed copy of **HB 627** on page 8, by inserting after line 2 the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) When a person under arrest refuses, upon request of a law enforcement officer, to submit to a chemical test provided for in KRS 186.565(1), and his license is neither suspended nor revoked, and he is not convicted of violating KRS 189A.010, the affidavit of refusal to submit to such test and his attendance at a driver's education program shall be confidential.

(2) If an insurance company receives such information, it shall be prohibited from using the information as a basis for denying insurance or to raise the insurance rates of such person.

(3) The provisions of subsection (1) of this section shall be retroactive so as to require any insurance company which has denied insurance or raised the rate of any person in violation of the provisions of this section, to reinstate the person's insurance or lower his rates to the previous rates.

Floor Amendment No. 2 to Committee Substitute to **HB 651**, by Representative Mason:

Amend printed copy of Committee Substitute to **HB 651** on page 21, line 15, by deleting "*so*" and replacing it with "*commencing on the area*"; and

On line 16, by deleting "*otherwise prohibit*" and replacing it by "*have prohibited*"; and

On line 17, after "*KRS 350.085*" by inserting "*had the use existed prior to permit issuance*"; and

On line 20, by deleting "*Unless*" and inserting "*After July 15, 1988, unless*"; and

On line 22, by deleting "*waivers*" and replace it by "*waiver*"; and

On line 26, by deleting "*disturbances*" and replacing it with "*disturbance*".

Floor Title Amendment to **HB 653**, by Representative O'Brien:

Amend printed copy of **HB 653** by changing the title to read:

"AN ACT relating to cosmetologists and declaring an emergency."

Floor Amendment No. 1 to **HB 653**, by Representative O'Brien:

Amend printed copy of **HB 653** on page 8, after line 10, by adding the following:

"Section 2. Whereas, the ability of the board of hairdressers and cosmetologists to charge a license fee for individual stalls in a beauty salon does not conform to statutory authority, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

Floor Amendment No. 1 to **HB 711**, by Representative Hancock:

Amend printed copy of **HB 711** on page 1, line 3, by deleting "*a commission*" and inserting "*an advisory board*" in lieu thereof.

On page 1, line 6, by deleting the word "*commission*" and inserting "*advisory board*" in lieu thereof.

On page 1, line 11, by deleting the word "*commission*" and inserting "*board*" in lieu thereof.

On page 2, line 3, by deleting the word "*commission*" and inserting "*board*" in lieu thereof.

On page 2, line 7, by deleting the word "*commission*" and inserting "*advisory board*" in lieu thereof.

On page 2, line 10, by deleting the word "*commission*" and inserting "*board*" in lieu thereof.

On page 2, line, 15, by deleting the word "*commission*" and inserting "*advisory board*" in lieu thereof.

On page 2, line 15 by deleting the word "*judge*" and inserting "*recommend*" in lieu thereof.

On page 3, line 21, by deleting the word "*commission*" and inserting "*advisory board*" in lieu thereof.

On page 4, line 12, by deleting the word "*commission*" and inserting "*board*" in lieu thereof.

On page 4, line 13, after the word "*compensation*" by inserting: "*but shall be reimbursed for expenses incurred to attend board meetings*".

Floor Amendment No. 2 to **HB 711**, by Representative Hancock:

Amend printed copy of **HB 711** on page 4, line 16, by deleting the words "rural secondary" and by inserting the word "state" in lieu thereof.

On page 4, line 16 after the "fund" by deleting the rest of said line and on page 4, line 17 by deleting "177.320(1)".

Floor Amendment No. 1 to **HB 733**, by Representative O'Brien:

Amend printed copy of **HB 733** on page 1, line 8, after "*earth*" by adding "*containing a black zone*"

Floor Amendment No. 1 to **HB 855**, by Representative Scorsone:

Amend printed copy of **HB 855** by adding the following language after page 3, line 4:

"*(5) In cases where the Office for Investment and Debt Management does not perform the bond issuance related services, the office shall not approve any bonds pursuant to the authority granted under KRS 42.420 unless the issuing authority follows the procedures for awarding state contracts as defined and specified under KRS 45A.075 to 45A.095 for all sale, issuance, underwriting, brokering, insuring, printing, advisory, marketing, fiduciary and legal services related to bonds. For purposes of interpretation, purchasing officer, as used in KRS 45A, shall be defined as the Office of Investment and Debt Management whenever the contracts under consideration relate to some aspect of the bond issuance, sale, marketing, fiduciary or other bond issuance processes including legal and professional services. KRS 45A.080 and KRS 45.360 notwithstanding, these requirements shall apply to all contracts or professional services for any amount involving the issuance, sale marketing, fiduciary and other services related to bonds or other authorized alternative bond mechanisms such as commercial paper public obligations or other public obligations issued in lieu of bonds.*"

Floor Amendment No. 1 to **HJR 70**, by Representative Blevins:

Amend printed copy of **HJR 70** on page 2, line 15, after "Sportsmen," add the following: "Kentucky League of Women Voters, Kentucky Chamber of Commerce, Kentucky Chapter of the American Water Works Association"

Floor Amendment No. 1 to **SB 350**, by Representative Morris:

Amend printed copy of **SB 350** on page 8, by inserting after line 23 the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) When a person under arrest refuses, upon request of a law enforcement officer, to submit to a chemical test provided for in KRS 186.565(1), and his license is neither suspended nor revoked, and he is not convicted of violating KRS 189A.010, the affidavit of refusal to submit to such test and his attendance at a driver's education program shall be confidential.

(2) If an insurance company receives such information, it shall be prohibited from using the information as a basis for denying insurance or to raise the insurance rates of such person.

(3) The provisions of subsection (1) of this section shall be retroactive so as to require any insurance company which has denied insurance or raised the rate of any person in violation of the provisions of this section, to reinstate the person's insurance or lower his rates to the previous rates."

The Clerk announced the following meetings:

The Committee on Cities, March 10, 1988, 8:30 a.m.

The Committee on Judiciary-Civil, March 10, 1988, upon adjournment, Room 110.

The Committee on Natural Resources and Environment, March 10, 1988, 12 Noon, Willis Room.

The Committee on Rules, Speaker's Office, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 10, 1988.

On the roll call the vote was yeas 73-Adams, Adkins, Ark, Arnold, Ballard, Barrows, Blevins, J. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, Kerr, Layman, Lear, Lefevers, Lile, Little, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, O'Brien, Priddy, Rapier, Reinhardt, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Yates. Nays 2-Bronger, LeMaster.

The motion to adjourn was adopted.

THURSDAY, MARCH 10, 1988

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Brother George Marsh, Antioch Church of Christ, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Geveden.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 10, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 179**, **SB 195**, **SB 211**, **SB 262**, **SB 297**, **SB 305**, **SB 336**, **SJR 65**, **SCR 68**, **HB 227** with Senate Amendment, **HB 461**, **HB 448**, **HB 537**, **HB 538**, **HB 569**, **HB 642** and **HJR 28**.

Introduction of Resolutions

HR 147, by Representative Jackson: A RESOLUTION honoring Joyce Williams, Kentucky Artist.

HR 148, by Representative Jackson: A RESOLUTION honoring Margo Adams, Kentucky Artist.

HR 149, by Representative K. Harper: A RESOLUTION honoring Terry Johnson, Kentucky Artist.

HR 150, by Representatives McBee and Bronger: A RESOLUTION honoring Gary Akers, Kentucky Artist.

HR 151, by Representative Will: A RESOLUTION honoring the Adult Day Center of the Highlands Community Ministries.

HR 152, by Representative Will: A RESOLUTION honoring centenarian Mary L. Snow.

HR 153, by Representative Hoover: A RESOLUTION honoring Patricia Ritter, Kentucky Artist.

Representative Stumbo moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Will moved the adoption of the following **HR 152**:

HR 152, A RESOLUTION honoring centenarian Mary L. Snow.

WHEREAS, yesterday marked the 106th birthday of Mary Lancaster Snow, of Louisville; and

WHEREAS, Mrs. Snow was born in Chestnut Grove, Kentucky, in 1882, when Chester A. Arthur was in the White House; she moved to Louisville in 1886, was married to Walter E. Snow in 1917, and has lived in the same home ever since; and

WHEREAS, this remarkable lady is still active in church work, plays several musical instruments, does her own yard work, and is a member of the Louisville Walking Club; and

WHEREAS, Mrs. Snow has reached the age where, as Bob Hope says, her candles cost more than her cake; and

WHEREAS, young in spirit, Mrs. Snow is an inspiration to all who know her;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes this remarkable Kentuckian, Mary Lancaster Snow, and wishes her continued health and happiness.

Section 2. That when the House adjourns this day, Thursday, March 10, 1988, it does so in honor of Mary Lancaster Snow.

Section 3. That a copy of this resolution be sent to Mary Lancaster Snow, 1956 Roanoke Avenue, Louisville, Kentucky.

HR 152 was adopted by voice vote.

Representative Will moved that a call of the roll be taken to show co-sponsors of **HR 152**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 152**: Adams, Adkins, Allen, Altman, Ark, Ballard, Blandford, Blevins, Bronger, J. Brown, M. Brown, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Noe, Noland, Northup, O'Brien, Overstreet, Preston, Pritchett, Rapier, Reinhardt, Richards, P. Richardson, Ridley, Robinson, Scorsone, Seum, B. Smith, Strong, Stumbo, Turner, Walker, White, Will, Worthington, Yates.

Representative Will moved the adoption of the following **HR 151**:

HR 151, A RESOLUTION honoring the Adult Day Center of the Highlands Community Ministries.

WHEREAS, the Highlands Community Ministries celebrates this month the twentieth anniversary of the day its twenty-six member churches first began to serve the city of Louisville; and

WHEREAS, this ministry has applied a very practical and effective approach to the daily social, physical, and emotional needs of those it serves; and

WHEREAS, this ministry has placed special emphasis on ministering to the young and the elderly; and

WHEREAS, the Adult Day Center, providing meals, arts and crafts programs, and recreation, among other services, is a vital part of this ministry;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House salutes the Highlands Community Ministries and its Adult Day Center for the valuable services they have performed for the past twenty years.

Section 2. That a copy of this resolution be sent to Shirley Ackerman, of the Highlands Community Ministries, Adult Day Center, 2000 Douglass Blvd., Louisville, Ky.

HR 151 was adopted by voice vote.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 301**.

Health and Welfare: **HCR 141**.

State Government: **SCR 69**.

Transportation: **SB 167**.

Report of Committees

The Committee on Rules reported **HB 520, HB 635, HB 20, HB 514, HB 521, HB 555, HB 609, HB 668, HB 684, HB 703, HB 719, HB 793, HJR 70, SB 223** and **HB 769** have been posted for passage in Orders of the Day, March 11, 1988.

The Committee on Rules reported the following Bill has been recommitted:

Education: **HB 494**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Judiciary-Criminal: **HB 1002, HB 1007**.

Judiciary-Civil: **HB 850**.

Report of Committees

The Committee on Agriculture and Small Business reported **HB 484** with Committee Substitute attached thereto, **HB 740** with Committee Substitute attached thereto, **HB 784** and **HB 992** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 484, AN ACT relating to veterinarians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of public health, safety and welfare. To protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners, and from unprofessional or illegal practices by persons licensed to practice veterinary medicine, this chapter is enacted in the interest of the health, safety and welfare of the animal population and the citizens of the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

In order for a veterinarian to diagnose, treat, operate on, or prescribe for an animal, a veterinary/client/patient relationship shall be established and maintained. A veterinary/client/patient relationship means a relationship where all of the following conditions have been met:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the instructions of the

veterinarian.

(2) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal, or by medically appropriate and timely visits to the premises where the animal is kept.

(3) The veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy.

(4) The veterinarian maintains records which document patient visits, diagnosis, treatment and other relevant information.

SECTION 3. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a license by endorsement to any applicant who, upon applying to the board and remitting a fee set by the board, demonstrates to the board that he has met the following requirements:

(a) He is a graduate of an approved veterinary college;

(b) He is of good moral character;

(c) He holds a valid license to practice veterinary medicine and has practiced veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States for at least one (1) year preceding his application, provided that the requirements for licensure in the issuing state are not lower than the standards required for the issuance of a new license under the provisions of this chapter;

(d) He has passed an examination given by the board on the laws and regulations of this state governing the practice of veterinary medicine; and

(e) He has passed a practical clinical examination, either written or oral, given by the board.

(2) The board shall not issue a license by endorsement to any applicant who is under investigation in another state, territory, or the District of Columbia for an act which would constitute a violation of this chapter, until the investigation is complete and disciplinary proceedings have been terminated.

SECTION 4. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

Members of the board shall be immune from suit in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith as members of said board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinary technologist means a person:

(1) Who has successfully completed an accredited program of veterinary technology approved by the board;

(2) Has completed a bachelor of science degree in veterinary technology (BSVT), or its equivalent, acceptable to the board; and

(3) Has passed the examinations given by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A veterinary technologist shall first pass a written and practical examination as determined by the board as to the qualifications and fitness to engage in such service. An applicant shall be a graduate of an accredited program of veterinary technology approved by the board and one who has met all the requirements

to hold a bachelor of science degree in veterinary technology (BSVT), or its equivalent, acceptable to the board.

(2) Registration issued to a veterinary technologist shall be inactive until such time the veterinary technologist is employed by a veterinarian licensed by this Commonwealth. A veterinary technologist's registration shall be considered to be inactive until registration is activated by returning a renewal application signed by the employing veterinarian and the application is approved by the board. Each veterinary technologist registered by the board shall pay an annual fee not to exceed twenty-five dollars ($25) and shall attend such annual continuing education hours as the board shall authorize to renew his registration. Failure to renew shall result in the registration expiring. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of registration, a hearing shall be conducted in accordance with the provision of KRS 321.360.

(3) The services of a veterinary technologist shall be limited to the performance of duties under the supervision of a licensed veterinarian. A veterinary technologist shall receive no fee or compensation of any kind for services other than salary or compensation as may be paid to him by the veterinarian, hospital or clinic by which he is employed. He shall not participate in the operation of a branch office, clinic or allied establishment unless a licensed veterinarian is present. A veterinary technolgist as an assistant to and under the supervision of a licensed veterinarian, may assist the veterinarian in the following:

(a) Hospital and Office Management;

(b) Veterinary Pharmacy Management;

(c) Veterinary Anesthesiology;

(d) Veterinary Clinical Pathology;

(e) Any and all duties in veterinary medicine and surgery except:

1. Diagnosing;

2. Prescribing of treatment; and

3. Performance of surgical procedures.

(4) A veterinarian shall utilize the services of a veterinary technologist in accordance with the terms and provisions of KRS 321.450(3). Unauthorized utilization of veterinary technologists by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.430.

SECTION 7. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinarian may make farm or house calls in a motor vehicle or utilize a motor vehicle equipped with special medical or surgical equipment provided the veterinarian has a permanent base of operations with a published address and telephone number where the veterinarian can be contacted.

SECTION 8. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A quorum of the board may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that such action may be necessary, the executive director shall cause to be issued to the licensee a written notice setting forth the basis for the action and the date, time and location for a hearing before a quorum of the board. The hearing date shall be at least fifteen (15) days from the date the notice is mailed by first class to the last known address of the licensee.

(2) The issue to be decided at the hearing shall be whether reasonable cause exists for the immediate temporary suspension of a license in order to protect the public pending the outcome of the underlying disciplinary action or investigation. The subpoena powers and procedures applicable to regular disciplinary hearings shall apply except for the provisions by regulation for prehearing disclosure of evidence.

(3) The determination by the quorum of the board shall be reported to the full board for ultimate decision in the same manner as in regular disciplinary proceedings.

(4) A determination by the quorum of the board that reasonable cause exists for the immediate temporary suspension of a license shall operate to suspend that license as of the hearing date. Continued practice after that date shall be dealt with as the unlicensed practice of veterinary medicine.

(5) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(6) The order of immediate temporary suspension shall remain in effect until overturned by the board or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.

SECTION 9. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

The board shall have the authority to enter into an agreement with the Kentucky veterinary medical association for a veterinary medical impairment committee to undertake the functions and responsibilities of an impaired veterinarian program, as specified in the agreement. Such functions and responsibilities may include any or all of the following:

(1) Receiving and evaluating reports of suspected impairment from any source;

(2) Intervening in cases of verified impairment; and

(3) Referring impaired veterinarians to treatment programs.

SECTION 10. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

Other provisions of law notwithstanding, all board and committee records pertaining to the impaired veterinarian program shall be kept confidential and shall not be subject to discovery or subpoena. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.

SECTION 11. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of law notwithstanding, no member of the board, the Kentucky veterinary medical association or the veterinary medical impairment committee shall be liable for damages to any person for any acts, omissions or recommendations made by him in good faith while acting within the scope of his responsibilities pursuant to Section 9 of this Act.

(2) No person who in good faith and without malice makes a report to the veterinary medical impairment committee shall be liable for damages to any person.

Section 12. KRS 321.180 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of veterinary examiners.

(2) "Commissioner" means the commissioner of agriculture.

(3) "Animal" means any animal except human beings.

(4) "Compensation" includes any gift, bonus, fee, money, credit or other thing of value.

(5) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the commonwealth

of Kentucky.

(6) "Practicing veterinary medicine, *surgery and dentistry,*" except as hereinafter stated, means: A person shall be considered as practicing veterinary medicine, *surgery and dentistry* who holds himself out as being able to diagnose, treat, operate on, or prescribe for any animal disease, pain, injury, deformity or physical condition and who shall either offer or undertake by any means or methods to diagnose, treat, operate on or prescribe for any animal pain, injury, deformity or physical condition for compensation; or who for compensation or with expectation of receiving compensation, advises, recommends, administers or dispenses a drug, medicine, appliance or application, operation or treatment of whatever nature for the prevention, cure or relief of a wound, fracture or bodily injury or disease of any animal *or who alters the maternal status of an animal*; or any person who shall advertise or hold himself out to the public as a veterinary physician, surgeon, or specialist or who shall use any title so indicating or who shall append to his name either by prefix, affix, or otherwise, the letters V.S., D.V.S., M.D.V., D.V.M., V.M.D. or B.V.Sc.

(7) "Chemical restraint" means the use of any drug or other similar substance that restrains or tranquilizes the animal.

(8) "Direct supervision" means on the same premise.

(9) "Impaired veterinarian program" means the Kentucky veterinary medical association sponsored program for the detection, intervention and monitoring of veterinarians impaired as a result of alcoholism, drug abuse or mental illness.

(10) "Veterinary medical impairment committee" means a committee of the Kentucky veterinary medical association, comprised of individuals who have expertise in the areas of alcoholism, drug abuse or mental illness, that has been designated by the Kentucky veterinary medical association to perform activities related to the impaired veterinarian program.

Section 13. KRS 321.190 is amended to read as follows:

Except as provided in KRS 321.200, no person shall practice veterinary medicine or perform any of the duties usually performed by a veterinarian unless such person at the time holds a certificate of license to practice veterinary medicine issued and validly existing under the laws of this Commonwealth [~~and whose license is duly recorded in the county in which the holder resides~~], as provided in this chapter. No person who violates any of the provisions of this section may receive or accept any compensation for services so rendered.

Section 14. KRS 321.200 is amended to read as follows:

[~~(1)~~] None of the provisions of this chapter shall be construed to prohibit any of the following:

(1)[~~(a)~~] Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice.

(2)[~~(b)~~] The owner of any animal [~~or animals~~] and the owner's full-time, regular employes from caring for and treating any *animal* [~~animals~~] belonging to such owner *as long as such procedure does not require use of chemical restraint except as prescribed by a licensed veterinarian.*

(3)[~~(c) Any person from castrating animals, from dehorning cattle, or trimming or cutting the ears or tail of dogs, from treating minor sprains, cuts or other minor injuries of animals when such person does not represent himself to be a veterinarian or use any title or degree pertaining to veterinary medicine.~~

~~(d)~~] Any student enrolled in any *approved* veterinary school or college [~~or any employe~~] from working under the [~~direct instructions, direct control or~~] direct supervision of a veterinarian who is duly licensed under the laws of this commonwealth and whose compensation is paid solely by such licensed veterinarian.

(4)[~~(e)~~] Nonlicensed *graduate* veterinarians [~~and others~~] in the United States *armed services* [~~army~~] or *the animal and plant health inspection service of the United States department of agriculture* [~~United States bureau of animal industry~~] while engaged in the performance of their official duties, or other lawfully qualified

veterinarians residing in other states, meeting licensed veterinarians of this state in consultation[~~, or any lawfully qualified veterinarian residing near the border of a neighbor state and authorized under the laws of that state to practice veterinary medicine in that state whose practice extends into the limits of this state; but such practitioner shall not open any office or appoint any place to meet clients or prospective clients within the limits of this state.~~

~~(f) Any person from treating diseases of animals for compensation at any place which is twenty (20) miles or more distant from the office or place of business of the nearest practicing veterinarian who is licensed as such under the laws of this commonwealth.~~

~~(2) Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist or prevent him from selling drugs, medicines, appliances or any other product used in the prevention or treatment of swine diseases~~].

Section 15. KRS 321.210 is amended to read as follows:

[~~(1)~~] All licenses to practice veterinary medicine in this Commonwealth which have heretofore been issued under the laws of this Commonwealth and which have not been revoked and which are in effect on March 29, 1948, shall continue to be valid under the terms of this chapter and may be renewed from year to year, as hereinafter provided, but shall be subject to revocation as in this chapter provided. The holder of any such existing valid license shall not be required to take any other or further examination unless said license be revoked or suspended as provided in this chapter, but each said license shall be renewed annually on or before June 30 in each year. Every licensed veterinarian shall have his license renewed each year on or before June 30, the renewal to be as of July 1 of each year.

[~~(2) Any person who had been a practitioner of veterinary medicine, surgery or dentistry in this Commonwealth for a period of one (1) year next prior to March 24, 1916, upon application to the board and the payment to the board of a fee of twenty-five dollars ($25.00), shall be entitled to a license, and said board shall issue to such applicant a license on the standard form used and approved by the board, signed by its chairman and secretary-treasurer and attested by its seal, which license he shall have recorded in the office of the county clerk of the county in which he resides, as provided in KRS 321.290. No license shall be issued under the provisions of this subsection after the 30th day of June, 1948, except as to applications filed with the board prior to said date.~~]

Section 16. KRS 321.230 is amended to read as follows:

There hereby is created a board to be known as the "Kentucky Board of Veterinary Examiners." Said board shall consist of the commissioner *or his proxy*[~~, who shall be chairman,~~] and four (4) members appointed by the governor. Three (3) members shall be citizens of the Commonwealth of Kentucky who shall have been lawfully engaged in the practice of veterinary medicine in this Commonwealth for at least five (5) years next preceding the date of his appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. No person shall be eligible to be or remain an appointed member of said board who during any part of the aforesaid five-year period next preceding his appointment, or at the time of his appointment, or during his term is or has been a stockholder, member of the faculty or board of trustees of any college of veterinary medicine, surgery or dentistry that awards a degree in any of these subjects, or who is financially interested in any such college. The members shall be appointed for a term of four (4) years. Any vacancy in the membership of said board shall be filled for the unexpired term by appointment by the governor. Annually the governor shall appoint one (1) member of said board, qualified as aforesaid, for the four-year term. Each member of the board shall receive *seventy-five dollars ($75)* [~~twenty-five dollars ($25.00)~~] per day for each day of service actually given in carrying out his duties under this chapter, in addition to his necessary traveling, hotel and contingent expenses incurred in attending the meetings of the board and in the performance of his duties, to be paid as the compensation and expenses of other officers are paid, except that they shall be paid out of the funds received under this chapter. [~~Each member, before beginning his term of office, shall file with the secretary of state his written oath for the faithful discharge of his official duties.~~]

Section 17. KRS 321.240 is amended to read as follows:

(1) The members of the board shall hold their first meeting as soon as practicable after they are appointed and qualified. They shall immediately proceed to organize by electing a *chairman and a* vice-chairman [~~and a secretary-treasurer. The last officer, namely, secretary-treasurer, need not be a member of the board but~~

~~shall possess all of the qualifications required of a person to be eligible for appointment as a member of said board~~]. Said officers shall hold their respective offices at the pleasure of the board.

(2) The board shall hold at least two (2) meetings annually for the purpose of giving examinations under this chapter and such additional meetings for examinations or for any other purposes as the board may deem necessary.

(3) All meetings of the board shall be held at such time and at such place as the board may see fit, and due notice shall be given to all applicants for examination for a license of the time and place at which the examination will be given.

(4) Said board shall adopt and have a common seal bearing the name "Kentucky State Board of Veterinary Examiners."

(5) The board shall make and adopt such bylaws, rules and regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of this chapter.

(6) The board shall promulgate a code of conduct governing the practice of veterinary medicine, veterinary surgery, and veterinary dentistry which shall be based upon generally recognized principles of professional ethical conduct.

Section 18. KRS 321.250 is amended to read as follows:

[~~(1) The board shall fix the amount of the monthly or annual salary to be paid to the secretary-treasurer for his services and may assign to the secretary-treasurer such duties as it may determine which are not inconsistent with the provisions of this chapter. If the secretary-treasurer be a member of the board he shall not be allowed and shall not draw the per diem compensation provided in KRS 321.230 but shall only draw such compensation or salary as the board may fix pursuant to the provisions of this section. The secretary-treasurer shall be required to give bond, to be approved by the board, for the faithful performance of his duties, and said bond shall be filed in the office of the secretary of state.~~

~~(2)~~] The board shall employ, and at its pleasure discharge, *an executive director* [~~such stenographers, clerks~~] and other employes as it shall deem necessary to discharge the duties imposed upon it by the provisions of this chapter, and the board shall outline the duties and fix the compensation of each person employed by it, subject to the general laws of this state. The board shall obtain such office space, furniture, stationery, fuel, light and other proper conveniences as shall be reasonably necessary to carry out the provisions of this chapter.

Section 19. KRS 321.260 is amended to read as follows:

(1) Any person not entitled to a license or to a certificate of license under the provisions of KRS 321.210 [~~or 321.220~~], or any person who hereafter shall wish to practice veterinary medicine in this Commonwealth, before entering upon the practice of veterinary medicine shall first pass a written and oral examination as to his qualifications and fitness to engage in such practice. Said examinations shall be given in the English language and be conducted by the board. An applicant for such examination shall be a graduate of a veterinary college approved by the board. *A senior student in good standing at an approved school by the board, may be allowed to take the examination, but no license shall be issued until the student submits proof of graduation.* [~~He shall be at least eighteen (18) years of age and shall be of good moral character.~~]

(2) An application to the board for admission to a licensing examination shall be filed with the *executive director* [~~secretary-treasurer of the board~~] on forms prepared and approved by the board, which forms will be furnished to the applicant by the *executive director* [~~secretary-treasurer~~] without cost to the applicant. [~~Each applicant must submit with his application proof, satisfactory to the board, that he is a graduate of a veterinary college approved by the board, that he is at least eighteen years of age, and of good moral character.~~] Each application shall be accompanied by the payment to the board of an application fee of twenty-five dollars plus any additional charge to the board for examination materials prepared by or furnished to the board.

(3) No person hereafter shall be examined by the board unless:

(a) He shall have paid to the board, in advance, the application fee and charges for the examination materials, and

(b) He shall have presented to the board satisfactory proof of his qualifications to be admitted to the examination, as provided in this chapter.

(4) Each person who successfully passes an examination before the board shall receive a certificate of license to practice veterinary medicine, which license shall be signed by the chairman and *executive director* [~~secretary-treasurer~~] of the board, and the seal of the board shall be affixed thereon. The certificate of license shall state that the person to whom it is issued has passed the prescribed examination and is competent to practice veterinary medicine, surgery and dentistry. A copy of such license shall be recorded by the *executive director* [~~secretary-treasurer~~] of the board in a book kept for that purpose, which shall be open to public inspection.

Section 20. KRS 321.270 is amended to read as follows:

(1) Each examination hereinabove provided for shall be held by the board upon the subjects set forth in this section.

[~~(a)~~] The [~~subjects of the written~~] examination shall be *written and shall consist of several parts.*[~~:~~]

(a) Part one (1) shall test the following subjects:

Anatomy, including histology and embryology;[~~.~~]

Physiology and biochemistry;[~~.~~]

Bacteriology and immunology;[~~.~~]

Pathology and diagnosis;[~~.~~]

Parasitology;[~~.~~]

Medicine, materia medica, therapeutics, pharmacology;[~~.~~]

Surgery;[~~.~~]

Obstetrics; *and*[~~.~~]

Sanitation, hygiene, meat and milk inspection;[~~.~~]

(b) *Part two (2) shall test the following subjects:*

1. Horses-physical examination, diagnosis and treatment;

2. Cattle-physical examination, diagnosis and treatment;

3. Dogs and cats-physical examination, diagnosis and treatment; and

4. Sheep, goats, swine and poultry-physical examination, diagnosis and treatment.

(c) The board may include any other parts to the examination it deems necessary.

(d) The board shall allow an individual who has failed the examination overall but has passed one (1) or more of the subjects included in part two (2) to carry forward those passing scores when and if the individual retakes the examination within one (1) year.

(e) No one may take the examination more than four (4) times. [~~These examinations may include questions on hygiene, sanitation and preventive medicine.~~

~~(c) Any candidate who fails in more than two (2) subjects of the written examination shall be considered as conditioned in those subjects and may remove the condition at any subsequent examination held within two (2) years, without the payment of an additional fee. If he fails in more than two (2) subjects he shall be re-examined in all subjects of the written examination and shall pay an additional examination fee of twenty-five dollars ($25.00) for each such examination.~~

~~(3) In addition to the written examination, each applicant shall be subjected to a practical examination and the subjects of the practical examination and their scope shall be as follows:~~

~~Part I. Horses — Handling and restraint, physical examination, diagnosis and treatment.~~

~~Part II. Cattle — Handling and restraint, physical examination, diagnosis and treatment of diseases, examination for pregnancy.~~

~~Part III. Milk production — Physical examination of cattle with special reference to the production of wholesome milk.~~

~~Part IV. Dogs and cats — Handling and restraint, recognition of the breed, physical examination, diagnosis and treatment.~~

~~Part V. Sheep, goats, swine and poultry — Handling and restraint, physical examination, diagnosis and treatment.~~]

(3)[~~(4)~~] *The* [~~These~~] examinations shall be conducted in such manner that the results shall be entirely fair and impartial.[~~, and with respect to that part of the examinations conducted in writing~~] The *applicant's test* [~~applicants~~] shall be known only by numbers, so that no member of the board shall be able to identify the papers of any applicant until they have been graded.[~~, and~~] All questions and answers, with the grade attached, shall be preserved in the office of the board for at least two (2) years. All applicants examined at any one (1) time shall have the same questions asked them [~~and shall be required to make an average grade of at least seventy-five (75) with a minimum of sixty (60) in any one (1) branch or subject in order to successfully pass the examination~~].

(4) Applicants shall be required to achieve an overall average of seventy-five (75) or higher to have passed the examination. The board shall determine beforehand the weight to be given to each part.

Section 21. KRS 321.310 is amended to read as follows:

It shall be the duty of the *executive director* [~~secretary-treasurer of the board~~] to collect, account for and pay into the state treasury all fees provided by this chapter, and to keep a book for a permanent record showing the names and addresses of all persons in this commonwealth who hold a veterinarian's license, the names and addresses of all persons to whom a veterinarian's license is issued by the board, and the names and addresses of all veterinarians whose license is renewed in each year and the date of such renewal, and such other records as the board may prescribe.

Section 22. KRS 321.320 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter shall be paid to the *executive director* [~~secretary-treasurer of the board~~] for the use of the board and shall be deposited in the state treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this commonwealth. The compensation of members of the board [~~and secretary-treasurer of the board~~] and all of the employes of the board and all expenses incurred by the board shall be paid from this revolving fund. No such compensation or expenses shall be charged against the general funds of this commonwealth. The board shall file an annual report of its activities with the governor and such report shall include a statement of all receipts and disbursements.

Section 23. KRS 321.330 is amended to read as follows:

(1) All veterinarians licensed under the provisions of this chapter shall annually, prior to June 30 of each year, secure from the *executive director* [~~secretary-treasurer of the board~~] a renewal certificate upon the payment of a fee not to exceed *fifty dollars ($50)* [~~$25.00~~]. Not later than June 1 of each year the *executive director* [~~secretary-treasurer~~] shall notify by mail, all licensed veterinarians of the renewal date and fee. Application for renewal shall be upon such form as is prescribed by the board and the veterinarian shall furnish the information required by such form. As a prerequisite for license renewal, all veterinarians now or hereafter licensed in the Commonwealth of Kentucky, are and shall be required to take annual courses of study in subjects relating to the practice of veterinary medicine, veterinary surgery and veterinary dentistry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the board [~~and shall not exceed eight (8) hours in any calendar year~~]. Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed veterinarian at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals, for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. [~~In no instance may the board require a greater number of hours of study than are available at approved courses held within this state.~~] The board *may* [~~shall~~] waive the continuing education requirement in cases of illness or undue hardship.

(2) A licensed veterinarian who secures his renewal certificate after June 30 but before September 1 shall pay a late fee of fifty dollars ($50).

(3) Failure of any licensed veterinarian to secure his renewal certificate within sixty (60) days after June 30, shall constitute sufficient cause for the board to *suspend* [~~revoke~~] his license. *On or after September 1, the board shall send the veterinarian notice of its intention to suspend his license and advise him that he may, within twenty (20) days, request a hearing on the suspension. If no hearing is requested or if, after a hearing, the board finds no good cause to refrain from the suspension, the license shall be suspended. Any veterinarian whose license has been suspended shall not engage in the practice of veterinary medicine in this Commonwealth.*

(4) Any veterinarian whose license has been suspended as a result of his failure to secure a renewal certificate may, within five (5) years from the date of the suspension, apply for restoration and an end to the suspension by completing forms provided by the board, tendering a fee of one hundred dollars ($100), and payment of renewal fees for the current year and all back years. The board may, as a condition of restoration, require the veterinarian to complete such continuing education courses as the board deems necessary.

(5) Any license not renewed pursuant to subsection (4) of this section shall be terminated [~~The board may reinstate such license upon application of the holder if the application be received by the board within six (6) months from the date that the delinquency occurred, and upon such terms as the board shall provide for reinstatement. When a license becomes delinquent on June 30 as provided in this section, the person holding such license shall not have or exercise any rights or privileges by reason thereof. Provided, however, the license of any veterinarian shall remain in full force and effect without renewal thereof and without the payment of any renewal fee during the time that the holder thereof is actively serving in any of the Armed Forces of the United States and for six (6) months thereafter. Within six (6) months after the termination of such service, the holder of the license may have it renewed by notifying the secretary-treasurer of the board of his termination from military service and upon payment of the annual renewal fee~~].

Section 24. KRS 321.340 is amended to read as follows:

The board may refuse to issue a certificate of license provided for in this chapter for any of the following causes:

(1) The presentation to the board of any license, certificate or diploma which was illegally or fraudulently obtained, or for any fraudulent conduct of the party in passing an examination given under the provisions of this chapter.

(2) Habitual drunkenness or habitual addiction to the use of *drugs* [~~narcotics~~].

Section 25. KRS 321.350 is amended to read as follows:

The board may suspend or revoke a certificate of license *or restrict practice* [~~or license~~] for any of the causes for which it may refuse to grant a license under the provisions of this chapter, and for the following causes:

(1) For dishonesty in applying *any federal or state test on animals* [~~a tuberculin test on cattle~~] or making a false record of such test.

(2) [~~For dishonesty in applying a brucellosis (Bang's disease) test or making a false record of such test.~~

~~(3)~~] For the procuring of a license by fraudulent means.

(3)[~~(4)~~] For false advertising of medical practice intended, or having a tendency, to deceive and defraud the public.

(4)[~~(5)~~] For the conviction of any felony or crime involving moral turpitude.

(5)[~~(6)~~] Any gross negligence, incompetence or misconduct in the practice of veterinary medicine in this Commonwealth.

(6)[~~(7)~~] For any violation of the code of conduct promulgated by the board pursuant to subsection (6) of KRS 321.240.

Section 26. KRS 321.360 is amended to read as follows:

(1) The board, before denying an application for license under the provisions of KRS 321.340 or before suspending or revoking any license *or restricting practice* under the provisions of KRS 321.340 and 321.350, shall set the matter down for hearing; and, at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested to the last known business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the board shall prescribe.

(2) All hearings shall be conducted by a quorum of the board or by a hearing officer appointed by the board who shall be an attorney. Hearing officers shall not suspend, revoke or fine any licensee or restrict practice. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to cause to be prepared a record of the hearing, so that the board can discharge its functions. The hearing officer shall prepare a findings of fact and conclusions of law for submission to the board.

Section 27. KRS 321.390 is amended to read as follows:

(1) If the board, pursuant to the provisions of KRS 321.340, shall determine, after due hearing, that any applicant is not entitled to receive a license such license shall not be granted to the applicant; and if the board, after due hearing, shall determine that any licensee is guilty of a violation of the provisions of KRS 321.340 or 321.350 the license shall be suspended or revoked. The board, upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its findings of fact and its reason or reasons for refusing to grant the license or suspension of the rights of the licensee or for revocation of the license, as the case may be. The findings of fact by the board acting within its powers shall, in the absence of fraud, be conclusive, but any person aggrieved shall have the right of an appeal from the findings of the board.

(2) Upon suspension or revocation *the board shall give official notice of its action as it deems necessary* [~~of any license or certificate of license it shall be the duty of the board to give official notice of such action, under seal. to the county clerk of the county in which the holder is registered, and such name shall be marked as suspended for the period indicated or stricken from the register in accordance with such notice, and if such holder shall continue the practice he shall thereupon be subject to the penalties provided in this chapter~~].

Section 28. KRS 321.400 is amended to read as follows:

[~~(1)~~] Any party aggrieved by the action of the board in refusing to grant a license, or in suspending or revoking a license upon the basis of the provisions of KRS 321.340 and 321.350, or either of said sections, within thirty (30) days after the entry by the board of such order of refusal, revocation or suspension, may bring an action against the board in the Franklin Circuit Court to vacate or set aside the order of the board on the ground that it is unlawful or unreasonable. Service of summons or any notice upon the board may be made on the chairman or the *executive director* [~~secretary-treasurer~~] of the board, which will constitute effective service on said board and all its members.

[~~(2) The answer of the board shall be filed within twenty (20) days after the board is served with process in such action. The action will then be at issue, and stand ready for trial upon ten (10) days' notice to either party, on the equity side of the docket of the court. Injunctive relief may be granted by the court in the manner and upon the terms provided by law.~~]

Section 29. KRS 321.410 is amended to read as follows:

(1) If an action is commenced against the board, as authorized in KRS 321.400, the board shall promptly cause a certified transcript of all proceedings had and testimony taken therein to be made and filed with the clerk of the court in which the action is pending. The cost of preparing and certifying the record shall be paid to the board by the party bringing the action, and taxed as part of the costs, to be paid as directed by the court upon final determination of the action. Copies of the transcript shall be furnished at cost to any party to the proceeding. The action or appeal shall be determined by the court upon the record certified and filed as herein provided, and no new or additional evidence shall be heard or considered by the court unless it appears to the court from said record that the complaining party was denied the opportunity of a fair hearing before the board.

(2) The court shall enter a judgment either sustaining the order of the board, or setting it aside, or vacating it in whole or in part. Either party to the action may[~~, within sixty (60) days after the entry of the judgment of the circuit court,~~] appeal to the Court of Appeals.

Section 30. KRS 321.420 is amended to read as follows:

No person who has had a license revoked [~~for cause~~] shall be issued another license within five (5) years from the date of such revocation. *As a condition to ending the revocation the board shall require the individual to comply with KRS 321.260 and 321.270.*

Section 31. KRS 321.440 is amended to read as follows:

[~~(1)~~] "*Veterinary* [~~Animal~~] technician" shall mean a person[~~:~~

~~(a)~~] who has *received an associate degree in veterinary technology (AASVT), or its equivalent,* [~~successfully completed a post-high school course in the care and treatment of animals,~~] which [~~course~~] has been approved by the board, and passed the examination given by the board[~~;~~

~~(b) Or is on June 19, 1976 employed by a licensed veterinarian who is presently engaging in the practice of veterinary medicine in this state, and the veterinarian makes application to the board to permit him to use the services of said employee as an animal technician, and provided further the person seeking to be certified as an animal technician passes the examination given by the board~~].

Section 32. KRS 321.450 is amended to read as follows:

(1) A veterinary technician shall first pass a written or oral examination or both as determined by the board as to the qualifications and fitness to engage in such service. An applicant shall be a graduate or second year student in good standing of an associate degree program of veterinary technology (AASVT), or its equivalent, approved by the board.

(2) Registration issued to a veterinary technician shall be inactive until such time the veterinary technician is employed by a veterinarian licensed by this Commonwealth. A veterinary technician's registration shall be

considered to be inactive until registration is activated when a renewal application is signed by the employing veterinarian and returned to the board for approval. Each veterinary technician registered by the board shall pay an annual renewal fee not to exceed twenty-five dollars ($25.00) and shall attend such annual continuing education hours as the board shall authorize to renew his registration. Failure to renew shall result in the registration expiring. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of registration, a hearing shall be conducted in accordance with the provisions of KRS 321.360. [~~Any veterinarian licensed pursuant to this chapter shall make application to the board to permit him to use the services of any animal technician. Such application shall be accompanied by an application fee in an amount to be determined by the board and shall set forth such information as the board may require. There will be an annual fee, not to exceed $15.00, for each animal technician registered by the board. Failure to pay the annual renewal fee shall result in a loss of registration by the animal technician. No veterinarian practicing in this state shall utilize the services of an animal technician without prior approval of the board. Whenever it appears to the board that an animal technician is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with the provisions of KRS 321.360.~~

~~(2) No veterinarian who uses the services of an animal technician in accordance with the terms of any permission granted by the board shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine within the meaning of KRS 321.430. Provided, however, that any such veterinarian shall retain professional and personal responsibility of any act which constitutes the practice of veterinary medicine, veterinary surgery and veterinary dentistry as defined in this chapter when performed by an animal technician in his employ.~~]

(3) The *duties* [~~services~~] of *a veterinary* [~~an animal~~] technician shall be limited to the performance of *duties* [~~services~~] under the [~~direction and~~] supervision of a licensed veterinarian. He shall receive no fee or compensation of any kind for his services other than such salary or compensation as may be paid to him by the veterinarian, hospital or clinic by which he is employed. He shall not participate in the operation of a branch office, clinic or allied establishment unless a licensed veterinarian is present. *A veterinary* [~~An animal~~] technician, as an assistant to and under the supervision of a licensed veterinarian, may assist the veterinarian in the following:

(a) *Any and all duties in veterinary medicine and surgery except:*

1. Diagnosing;

2. Prescribing of treatment; and

3. Performance of surgical procedures.

(b) These duties include but are not limited to:

1. Obtaining and recording case histories;

2. Performance of physical examinations;

3. Preparation of patients, instruments, equipment and medicants for surgery and treatment;

4. Collection, preparation, shipping of specimens and performance of laboratory procedures; and

5. Performance of prescribed treatment and nursing care under supervision of the veterinarian.

(4) A veterinarian shall utilize the services of a veterinary technician in accordance with the terms and provisions of KRS 321.450(3). Unauthorized utilization of veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.430. [~~Obtaining and recording information about cases;~~

~~(b) Preparation of patients, instruments, equipment and medicants for surgery;~~

~~(c) Collection of specimens and performance of laboratory procedures;~~

~~(d) Application of wound dressings;~~

~~(e) Assisting the veterinarian in diagnostic, medical and surgical procedures.~~]

Section 33. KRS 321.990 is amended to read as follows:

(1) Any person who willfully makes any false representation to the board in applying for a license under this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500) or sentenced to jail for not less than ten (10) days or more than ninety (90) days, or both.

(2) For any violation of this chapter where the board has the power to deny, revoke, or suspend a license, the board may, in lieu thereof or in addition to other remedies impose a civil penalty against the violator of not more than one thousand dollars ($1,000).

(3) All civil penalties received and collected by the board shall be deposited with the state treasurer of the Commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board.

(4) Any civil penalty received and collected by the board may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in the circuit court.

[~~Any person who shall violate or aid in the violation of any of the provisions of KRS 321.180 to 321.430 shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.~~]

Section 34. The following KRS sections are repealed:

321.220 Licensing of person holding license from another state or country — Reciprocity.

321.290 Recording of license with county clerk.

321.300 Listing and report of licenses filed with county clerk.

The Committee Substitute to **HB 484** is as follows:

HB 484, AN ACT relating to veterinarians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

It is hereby declared that the practice of veterinary medicine is a privilege which is granted by legislative authority in the interest of public health, safety and welfare. To protect the public from being misled by incompetent, unscrupulous and unauthorized practitioners, and from unprofessional or illegal practices by persons licensed to practice veterinary medicine, this chapter is enacted in the interest of the health, safety and welfare of the animal population and the citizens of the Commonwealth of Kentucky.

SECTION 2. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

In order for a veterinarian to diagnose, treat, operate on, or prescribe for an animal, a veterinary/client/patient relationship shall be established and maintained. A veterinary/client/patient relationship means a relationship where all of the following conditions have been met:

(1) The veterinarian has assumed the responsibility for making medical judgments regarding the health of the animal and the need for medical treatment, and the client has agreed to follow the instructions of the

veterinarian.

(2) The veterinarian has sufficient knowledge of the animal to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has recently seen and is personally acquainted with the keeping and care of the animal by virtue of an examination of the animal, or by medically appropriate and timely visits to the premises or similar premises where the animal is kept.

(3) The veterinarian is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy.

(4) The veterinarian maintains records which document patient visits, diagnosis, treatment and other relevant information.

SECTION 3. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a license by endorsement to any applicant who, upon applying to the board and remitting a fee set by the board, demonstrates to the board that he has met the following requirements:

(a) He is a graduate of an approved veterinary college;

(b) He is of good moral character;

(c) He holds a valid license to practice veterinary medicine and has practiced veterinary medicine in another state of the United States, the District of Columbia, or a territory of the United States for at least one (1) year preceding his application, provided that the requirements for licensure in the issuing state are not lower than the standards required for the issuance of a new license under the provisions of this chapter;

(d) He has passed an examination given by the board on the laws and regulations of this state governing the practice of veterinary medicine; and

(e) He has passed a practical clinical examination, either written or oral, given by the board.

(2) The board shall not issue a license by endorsement to any applicant who is under investigation in another state, territory, or the District of Columbia for an act which would constitute a violation of this chapter, until the investigation is complete and disciplinary proceedings have been terminated.

SECTION 4. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

Members of the board shall be immune from suit in any action, civil or criminal, which is based upon any official act or acts performed by them in good faith as members of said board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinary technologist means a person:

(1) Who has successfully completed an accredited program of veterinary technology approved by the board;

(2) Has completed a bachelor of science degree in veterinary technology (BSVT), or its equivalent, acceptable to the board; and

(3) Has passed the examinations given by the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A veterinary technologist shall first pass a written and practical examination as determined by the board as to the qualifications and fitness to engage in such service. An applicant shall be a graduate of an accredited program of veterinary technology approved by the board and one who has met all the requirements

to hold a bachelor of science degree in veterinary technology (BSVT), or its equivalent, acceptable to the board.

(2) Registration issued to a veterinary technologist shall be inactive until such time the veterinary technologist is employed by a veterinarian licensed by this Commonwealth. A veterinary technologist's registration shall be considered to be inactive until registration is activated by returning a renewal application signed by the employing veterinarian and the application is approved by the board. Each veterinary technologist registered by the board shall pay an annual fee not to exceed twenty-five dollars ($25) and shall attend such annual continuing education hours as the board shall authorize to renew his registration. Failure to renew shall result in the registration expiring. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of registration, a hearing shall be conducted in accordance with the provision of KRS 321.360.

(3) The services of a veterinary technologist shall be limited to the performance of duties under the supervision of a licensed veterinarian. A veterinary technologist shall receive no fee or compensation of any kind for services other than salary or compensation as may be paid to him by the veterinarian, hospital or clinic by which he is employed. He shall not participate in the operation of a branch office, clinic or allied establishment unless a licensed veterinarian is present. A veterinary technolgist as an assistant to and under the supervision of a licensed veterinarian, may assist the veterinarian in the following:

(a) Hospital and Office Management;

(b) Veterinary Pharmacy Management;

(c) Veterinary Anesthesiology;

(d) Veterinary Clinical Pathology;

(e) Any and all duties in veterinary medicine and surgery except:

1. Diagnosing;

2. Prescribing of treatment; and

3. Performance of surgical procedures.

(4) A veterinarian shall utilize the services of a veterinary technologist in accordance with the terms and provisions of KRS 321.450(3). Unauthorized utilization of veterinary technologists by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.430.

SECTION 7. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

A veterinarian may make farm or house calls in a motor vehicle or utilize a motor vehicle equipped with special medical or surgical equipment provided the veterinarian has a permanent base of operations with a published address and telephone number where the veterinarian can be contacted.

SECTION 8. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) A quorum of the board may determine that immediate temporary suspension of a license against which disciplinary action or an investigation is pending is necessary in order to protect the public. When it appears that such action may be necessary, the executive director shall cause to be issued to the licensee a written notice setting forth the basis for the action and the date, time and location for a hearing before a quorum of the board. The hearing date shall be at least fifteen (15) days from the date the notice is mailed by first class to the last known address of the licensee.

(2) The issue to be decided at the hearing shall be whether reasonable cause exists for the immediate temporary suspension of a license in order to protect the public pending the outcome of the underlying disciplinary action or investigation. The subpoena powers and procedures applicable to regular disciplinary hearings shall apply except for the provisions by regulation for prehearing disclosure of evidence.

(3) The determination by the quorum of the board shall be reported to the full board for ultimate decision in the same manner as in regular disciplinary proceedings.

(4) A determination by the quorum of the board that reasonable cause exists for the immediate temporary suspension of a license shall operate to suspend that license as of the hearing date. Continued practice after that date shall be dealt with as the unlicensed practice of veterinary medicine.

(5) The board shall expedite disciplinary actions in which a license has been temporarily suspended.

(6) The order of immediate temporary suspension shall remain in effect until overturned by the board or superseded by final disciplinary action by the board. In cases where disciplinary action is imposed the board may additionally order that the temporary suspension continue in effect until the later of expiration of the time permitted for appeal or termination of the appellate process.

SECTION 9. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

The board shall have the authority to enter into an agreement with the Kentucky veterinary medical association for a veterinary medical impairment committee to undertake the functions and responsibilities of an impaired veterinarian program, as specified in the agreement. Such functions and responsibilities may include any or all of the following:

(1) Receiving and evaluating reports of suspected impairment from any source;

(2) Intervening in cases of verified impairment; and

(3) Referring impaired veterinarians to treatment programs.

SECTION 10. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

Other provisions of law notwithstanding, all board and committee records pertaining to the impaired veterinarian program shall be kept confidential and shall not be subject to discovery or subpoena. No person in attendance at any meeting of the committee shall be required to testify as to any committee discussions or proceedings.

SECTION 11. A NEW SECTION OF KRS CHAPTER 321 IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of law notwithstanding, no member of the board, the Kentucky veterinary medical association or the veterinary medical impairment committee shall be liable for damages to any person for any acts, omissions or recommendations made by him in good faith while acting within the scope of his responsibilities pursuant to Section 9 of this Act.

(2) No person who in good faith and without malice makes a report to the veterinary medical impairment committee shall be liable for damages to any person.

Section 12. KRS 321.180 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky board of veterinary examiners.

(2) "Commissioner" means the commissioner of agriculture.

(3) "Animal" means any animal except human beings.

(4) "Compensation" includes any gift, bonus, fee, money, credit or other thing of value.

(5) "Veterinarian" means a practitioner of veterinary medicine who is duly licensed in the commonwealth

of Kentucky.

(6) "Practicing veterinary medicine, *surgery and dentistry,*" except as hereinafter stated, means: A person shall be considered as practicing veterinary medicine, *surgery and dentistry* who holds himself out as being able to diagnose, treat, operate on, or prescribe for any animal disease, pain, injury, deformity or physical condition and who shall either offer or undertake by any means or methods to diagnose, treat, operate on or prescribe for any animal pain, injury, deformity or physical condition for compensation; or who for compensation or with expectation of receiving compensation, advises, recommends, administers or dispenses a drug, medicine, appliance or application, operation or treatment of whatever nature for the prevention, cure or relief of a wound, fracture or bodily injury or disease of any animal *or who alters the maternal status of an animal*; or any person who shall advertise or hold himself out to the public as a veterinary physician, surgeon, or specialist or who shall use any title so indicating or who shall append to his name either by prefix, affix, or otherwise, the letters V.S., D.V.S., M.D.V., D.V.M., V.M.D. or B.V.Sc.

(7) "Chemical restraint" means the use of any drug or other similar substance that restrains or tranquilizes the animal.

(8) "Direct supervision" means on the same premise.

(9) "Impaired veterinarian program" means the Kentucky veterinary medical association sponsored program for the detection, intervention and monitoring of veterinarians impaired as a result of alcoholism, drug abuse or mental illness.

(10) "Veterinary medical impairment committee" means a committee of the Kentucky veterinary medical association, comprised of individuals who have expertise in the areas of alcoholism, drug abuse or mental illness, that has been designated by the Kentucky veterinary medical association to perform activities related to the impaired veterinarian program.

Section 13. KRS 321.190 is amended to read as follows:

Except as provided in KRS 321.200, no person shall practice veterinary medicine or perform any of the duties usually performed by a veterinarian unless such person at the time holds a certificate of license to practice veterinary medicine issued and validly existing under the laws of this Commonwealth [~~and whose license is duly recorded in the county in which the holder resides~~], as provided in this chapter. No person who violates any of the provisions of this section may receive or accept any compensation for services so rendered.

Section 14. KRS 321.200 is amended to read as follows:

[~~(1)~~] None of the provisions of this chapter shall be construed to prohibit any of the following:

(1)[~~(a)~~] Any persons from gratuitously treating animals in cases of emergency if they do not represent themselves to be veterinarians or use any title or degree pertaining to veterinary practice.

(2)[~~(b)~~] The owner of any animal [~~or animals~~] and the owner's full-time *or*[~~,~~] regular *part-time* employes from caring for and treating any *animal* [~~animals~~] belonging to such owner *as long as such procedure does not require use of chemical restraint except as prescribed by a licensed veterinarian.*

(3)[~~(c)~~] Any *owner and the owner's full-time or regular part-time employes* [~~person~~] from castrating animals, from dehorning cattle, [~~or trimming or cutting the ears or tail of dogs,~~] from treating minor sprains, cuts or other minor injuries of animals when such person does not represent himself to be a veterinarian or use any title or degree pertaining to veterinary medicine.

(4)[~~(d)~~] Any student enrolled in any *approved* veterinary school or college [~~or any employe~~] from working under the [~~direct instructions, direct control or~~] direct supervision of a veterinarian who is duly licensed under the laws of this commonwealth and whose compensation is paid solely by such licensed veterinarian.

(5)[~~(e)~~] Nonlicensed *graduate* veterinarians [~~and others~~] in the United States *armed services* [~~army~~] or *the animal and plant health inspection service of the United States department of agriculture* [~~United States~~

~~bureau of animal industry~~] while engaged in the performance of their official duties, or other lawfully qualified veterinarians residing in other states, meeting licensed veterinarians of this state in consultation[~~, or any lawfully qualified veterinarian residing near the border of a neighbor state and authorized under the laws of that state to practice veterinary medicine in that state whose practice extends into the limits of this state; but such practitioner shall not open any office or appoint any place to meet clients or prospective clients within the limits of this state.~~

~~(f) Any person from treating diseases of animals for compensation at any place which is twenty (20) miles or more distant from the office or place of business of the nearest practicing veterinarian who is licensed as such under the laws of this commonwealth~~].

(6) Any lay employe from working under the supervision of a duly licensed veterinarian, provided that the employe does not diagnose, prescribe, or perform surgery other than dehorning or castrating.

(7)[~~(2)~~] Nothing in this chapter shall interfere with the professional activities of any licensed pharmacist or prevent him from selling drugs, medicines, appliances or any other product used in the prevention or treatment of swine diseases.

Section 15. KRS 321.210 is amended to read as follows:

[~~(1)~~] All licenses to practice veterinary medicine in this Commonwealth which have heretofore been issued under the laws of this Commonwealth and which have not been revoked and which are in effect on March 29, 1948, shall continue to be valid under the terms of this chapter and may be renewed from year to year, as hereinafter provided, but shall be subject to revocation as in this chapter provided. The holder of any such existing valid license shall not be required to take any other or further examination unless said license be revoked or suspended as provided in this chapter, but each said license shall be renewed annually on or before June 30 in each year. Every licensed veterinarian shall have his license renewed each year on or before June 30, the renewal to be as of July 1 of each year.

[~~(2) Any person who had been a practitioner of veterinary medicine, surgery or dentistry in this Commonwealth for a period of one (1) year next prior to March 24, 1916, upon application to the board and the payment to the board of a fee of twenty-five dollars ($25.00), shall be entitled to a license, and said board shall issue to such applicant a license on the standard form used and approved by the board, signed by its chairman and secretary-treasurer and attested by its seal, which license he shall have recorded in the office of the county clerk of the county in which he resides, as provided in KRS 321.290. No license shall be issued under the provisions of this subsection after the 30th day of June, 1948, except as to applications filed with the board prior to said date.~~]

Section 16. KRS 321.230 is amended to read as follows:

There hereby is created a board to be known as the "Kentucky Board of Veterinary Examiners." Said board shall consist of the commissioner *or his proxy*[~~, who shall be chairman,~~] and four (4) members appointed by the governor. Three (3) members shall be citizens of the Commonwealth of Kentucky who shall have been lawfully engaged in the practice of veterinary medicine in this Commonwealth for at least five (5) years next preceding the date of his appointment. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. No person shall be eligible to be or remain an appointed member of said board who during any part of the aforesaid five-year period next preceding his appointment, or at the time of his appointment, or during his term is or has been a stockholder, member of the faculty or board of trustees of any college of veterinary medicine, surgery or dentistry that awards a degree in any of these subjects, or who is financially interested in any such college. The members shall be appointed for a term of four (4) years. Any vacancy in the membership of said board shall be filled for the unexpired term by appointment by the governor. Annually the governor shall appoint one (1) member of said board, qualified as aforesaid, for the four-year term. Each member of the board shall receive *seventy-five dollars ($75)* [~~twenty-five dollars ($25.00)~~] per day for each day of service actually given in carrying out his duties under this chapter, in addition to his necessary traveling, hotel and contingent expenses incurred in attending the meetings of the board and in the performance of his duties, to be paid as the compensation and expenses of other officers are paid, except that they shall be paid out of the funds received under this chapter. [~~Each member, before beginning his term of office, shall file with the secretary of state his written oath for the faithful discharge of his official duties.~~]

Section 17. KRS 321.240 is amended to read as follows:

(1) The members of the board shall hold their first meeting as soon as practicable after they are appointed and qualified. They shall immediately proceed to organize by electing a *chairman and a* vice-chairman [~~and a secretary-treasurer. The last officer, namely, secretary-treasurer, need not be a member of the board but shall possess all of the qualifications required of a person to be eligible for appointment as a member of said board~~]. Said officers shall hold their respective offices at the pleasure of the board.

(2) The board shall hold at least two (2) meetings annually for the purpose of giving examinations under this chapter and such additional meetings for examinations or for any other purposes as the board may deem necessary.

(3) All meetings of the board shall be held at such time and at such place as the board may see fit, and due notice shall be given to all applicants for examination for a license of the time and place at which the examination will be given.

(4) Said board shall adopt and have a common seal bearing the name "Kentucky State Board of Veterinary Examiners."

(5) The board shall make and adopt such bylaws, rules and regulations as it may deem necessary and proper to effectively carry out and enforce the provisions of this chapter.

(6) The board shall promulgate a code of conduct governing the practice of veterinary medicine, veterinary surgery, and veterinary dentistry which shall be based upon generally recognized principles of professional ethical conduct.

Section 18. KRS 321.250 is amended to read as follows:

[~~(1) The board shall fix the amount of the monthly or annual salary to be paid to the secretary-treasurer for his services and may assign to the secretary-treasurer such duties as it may determine which are not inconsistent with the provisions of this chapter. If the secretary-treasurer be a member of the board he shall not be allowed and shall not draw the per diem compensation provided in KRS 321.230 but shall only draw such compensation or salary as the board may fix pursuant to the provisions of this section. The secretary-treasurer shall be required to give bond, to be approved by the board, for the faithful performance of his duties, and said bond shall be filed in the office of the secretary of state.~~

~~(2)~~] The board shall employ, and at its pleasure discharge, *an executive director* [~~such stenographers, clerks~~] and other employes as it shall deem necessary to discharge the duties imposed upon it by the provisions of this chapter, and the board shall outline the duties and fix the compensation of each person employed by it, subject to the general laws of this state. The board shall obtain such office space, furniture, stationery, fuel, light and other proper conveniences as shall be reasonably necessary to carry out the provisions of this chapter.

Section 19. KRS 321.260 is amended to read as follows:

(1) Any person not entitled to a license or to a certificate of license under the provisions of KRS 321.210 [~~or 321.220~~], or any person who hereafter shall wish to practice veterinary medicine in this Commonwealth, before entering upon the practice of veterinary medicine shall first pass a written and oral examination as to his qualifications and fitness to engage in such practice. Said examinations shall be given in the English language and be conducted by the board. An applicant for such examination shall be a graduate of a veterinary college approved by the board. *A senior student in good standing at an approved school by the board, may be allowed to take the examination, but no license shall be issued until the student submits proof of graduation.* [~~He shall be at least eighteen (18) years of age and shall be of good moral character.~~]

(2) An application to the board for admission to a licensing examination shall be filed with the *executive director* [~~secretary-treasurer of the board~~] on forms prepared and approved by the board, which forms will be furnished to the applicant by the *executive director* [~~secretary-treasurer~~] without cost to the applicant. [~~Each applicant must submit with his application proof, satisfactory to the board, that he is a graduate of a veterinary college approved by the board, that he is at least eighteen years of age, and of good moral character.~~] Each application shall be accompanied by the payment to the board of an application fee of twenty-five dollars plus any additional charge to the board for examination materials prepared by or furnished to the board.

(3) No person hereafter shall be examined by the board unless:

(a) He shall have paid to the board, in advance, the application fee and charges for the examination materials, and

(b) He shall have presented to the board satisfactory proof of his qualifications to be admitted to the examination, as provided in this chapter.

(4) Each person who successfully passes an examination before the board shall receive a certificate of license to practice veterinary medicine, which license shall be signed by the chairman and *executive director* [~~secretary-treasurer~~] of the board, and the seal of the board shall be affixed thereon. The certificate of license shall state that the person to whom it is issued has passed the prescribed examination and is competent to practice veterinary medicine, surgery and dentistry. A copy of such license shall be recorded by the *executive director* [~~secretary-treasurer~~] of the board in a book kept for that purpose, which shall be open to public inspection.

Section 20. KRS 321.270 is amended to read as follows:

(1) Each examination hereinabove provided for shall be held by the board upon the subjects set forth in this section.

(2) [~~(a)~~] The [~~subjects of the written~~] examination shall be *written and shall consist of several parts.*[~~:~~]

(a) Part one (1) shall test the following subjects:

Anatomy, including histology and embryology;[~~.~~]

Physiology and biochemistry;[~~.~~]

Bacteriology and immunology;[~~.~~]

Pathology and diagnosis;[~~.~~]

Parasitology;[~~.~~]

Medicine, materia medica, therapeutics, pharmacology;[~~.~~]

Surgery;[~~.~~]

Obstetrics; *and*[~~.~~]

Sanitation, hygiene, meat and milk inspection;[~~.~~]

(b) *Part two (2) shall test the following subjects:*

1. Horses-physical examination, diagnosis and treatment;

2. Cattle-physical examination, diagnosis and treatment;

3. Dogs and cats-physical examination, diagnosis and treatment; and

4. Sheep, goats, swine and poultry-physical examination, diagnosis and treatment.

(c) The board may include any other parts to the examination it deems necessary.

(d) The board shall allow an individual who has failed the examination overall but has passed one (1)

or more of the subjects included in part two (2) to carry forward those passing scores when and if the individual retakes the examination within one (1) year.

(e) No one may take the examination more than four (4) times. [~~These examinations may include questions on hygiene, sanitation and preventive medicine.~~

~~(c) Any candidate who fails in more than two (2) subjects of the written examination shall be considered as conditioned in those subjects and may remove the condition at any subsequent examination held within two (2) years, without the payment of an additional fee. If he fails in more than two (2) subjects he shall be re-examined in all subjects of the written examination and shall pay an additional examination fee of twenty-five dollars ($25.00) for each such examination.~~

~~(3) In addition to the written examination, each applicant shall be subjected to a practical examination and the subjects of the practical examination and their scope shall be as follows:~~

~~Part I. Horses — Handling and restraint, physical examination, diagnosis and treatment.~~

~~Part II. Cattle — Handling and restraint, physical examination, diagnosis and treatment of diseases, examination for pregnancy.~~

~~Part III. Milk production — Physical examination of cattle with special reference to the production of wholesome milk.~~

~~Part IV. Dogs and cats — Handling and restraint, recognition of the breed, physical examination, diagnosis and treatment.~~

~~Part V. Sheep, goats, swine and poultry — Handling and restraint, physical examination, diagnosis and treatment.~~]

(3)[~~(4)~~] *The* [~~These~~] examinations shall be conducted in such manner that the results shall be entirely fair and impartial.[~~, and with respect to that part of the examinations conducted in writing~~] The *applicant's test* [~~applicants~~] shall be known only by numbers, so that no member of the board shall be able to identify the papers of any applicant until they have been graded.[~~, and~~] All questions and answers, with the grade attached, shall be preserved in the office of the board for at least two (2) years. All applicants examined at any one (1) time shall have the same questions asked them [~~and shall be required to make an average grade of at least seventy-five (75) with a minimum of sixty (60) in any one (1) branch or subject in order to successfully pass the examination~~].

(4) Applicants shall be required to achieve an overall average of seventy-five (75) or higher to have passed the examination. The board shall determine beforehand the weight to be given to each part.

Section 21. KRS 321.310 is amended to read as follows:

It shall be the duty of the *executive director* [~~secretary-treasurer of the board~~] to collect, account for and pay into the state treasury all fees provided by this chapter, and to keep a book for a permanent record showing the names and addresses of all persons in this commonwealth who hold a veterinarian's license, the names and addresses of all persons to whom a veterinarian's license is issued by the board, and the names and addresses of all veterinarians whose license is renewed in each year and the date of such renewal, and such other records as the board may prescribe.

Section 22. KRS 321.320 is amended to read as follows:

All fees and other moneys received by the board pursuant to the provisions of this chapter shall be paid to the *executive director* [~~secretary-treasurer of the board~~] for the use of the board and shall be deposited in the state treasury to the credit of a revolving fund for the use of the board. No part of this revolving fund shall revert to the general funds of this commonwealth. The compensation of members of the board [~~and secretary-treasurer of the board~~] and all of the employes of the board and all expenses incurred by the board shall be paid from this revolving fund. No such compensation or expenses shall be charged against the general funds of this commonwealth. The board shall file an annual report of its activities with the governor and such report shall include a statement of all receipts and disbursements.

Section 23. KRS 321.330 is amended to read as follows:

(1) All veterinarians licensed under the provisions of this chapter shall annually, prior to June 30 of each year, secure from the *executive director* [~~secretary-treasurer of the board~~] a renewal certificate upon the payment of a fee not to exceed *fifty dollars ($50)* [~~$25.00~~]. Not later than June 1 of each year the *executive director* [~~secretary-treasurer~~] shall notify by mail, all licensed veterinarians of the renewal date and fee. Application for renewal shall be upon such form as is prescribed by the board and the veterinarian shall furnish the information required by such form. As a prerequisite for license renewal, all veterinarians now or hereafter licensed in the Commonwealth of Kentucky, are and shall be required to take annual courses of study in subjects relating to the practice of veterinary medicine, veterinary surgery and veterinary dentistry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The length of study shall be prescribed by the board [~~and shall not exceed eight (8) hours in any calendar year~~]. Attendance must be at a course or courses approved by the board. Attendance at any course or courses of study are to be certified to the board upon a form provided by the board and shall be submitted by each licensed veterinarian at the time he makes application to the board for the renewal of his license and payment of his renewal fee. The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals, for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. [~~In no instance may the board require a greater number of hours of study than are available at approved courses held within this state.~~] The board *may* [~~shall~~] waive the continuing education requirement in cases of illness or undue hardship.

(2) *A licensed veterinarian who secures his renewal certificate after June 30 but before September 1 shall pay a late fee of fifty dollars ($50).*

(3) Failure of any licensed veterinarian to secure his renewal certificate within sixty (60) days after June 30, shall constitute sufficient cause for the board to *suspend* [~~revoke~~] his license. *On or after September 1, the board shall send the veterinarian notice of its intention to suspend his license and advise him that he may, within twenty (20) days, request a hearing on the suspension. If no hearing is requested or if, after a hearing, the board finds no good cause to refrain from the suspension, the license shall be suspended. Any veterinarian whose license has been suspended shall not engage in the practice of veterinary medicine in this Commonwealth.*

(4) Any veterinarian whose license has been suspended as a result of his failure to secure a renewal certificate may, within five (5) years from the date of the suspension, apply for restoration and an end to the suspension by completing forms provided by the board, tendering a fee of one hundred dollars ($100), and payment of renewal fees for the current year and all back years. The board may, as a condition of restoration, require the veterinarian to complete such continuing education courses as the board deems necessary.

(5) Any license not renewed pursuant to subsection (4) of this section shall be terminated [~~The board may reinstate such license upon application of the holder if the application be received by the board within six (6) months from the date that the delinquency occurred, and upon such terms as the board shall provide for reinstatement. When a license becomes delinquent on June 30 as provided in this section, the person holding such license shall not have or exercise any rights or privileges by reason thereof. Provided, however, the license of any veterinarian shall remain in full force and effect without renewal thereof and without the payment of any renewal fee during the time that the holder thereof is actively serving in any of the Armed Forces of the United States and for six (6) months thereafter. Within six (6) months after the termination of such service, the holder of the license may have it renewed by notifying the secretary-treasurer of the board of his termination from military service and upon payment of the annual renewal fee~~].

Section 24. KRS 321.340 is amended to read as follows:

The board may refuse to issue a certificate of license provided for in this chapter for any of the following causes:

(1) The presentation to the board of any license, certificate or diploma which was illegally or fraudulently

obtained, or for any fraudulent conduct of the party in passing an examination given under the provisions of this chapter.

(2) Habitual drunkenness or habitual addiction to the use of *drugs* [~~narcotics~~].

Section 25. KRS 321.350 is amended to read as follows:

The board may suspend or revoke a certificate of license *or restrict practice* [~~or license~~] for any of the causes for which it may refuse to grant a license under the provisions of this chapter, and for the following causes:

(1) For dishonesty in applying *any federal or state test on animals* [~~a tuberculin test on cattle~~] or making a false record of such test.

(2) [~~For dishonesty in applying a brucellosis (Bang's disease) test or making a false record of such test.~~

~~(3)~~] For the procuring of a license by fraudulent means.

(3)[~~(4)~~] For false advertising of medical practice intended, or having a tendency, to deceive and defraud the public.

(4)[~~(5)~~] For the conviction of any felony or crime involving moral turpitude.

(5)[~~(6)~~] Any gross negligence, incompetence or misconduct in the practice of veterinary medicine in this Commonwealth.

(6)[~~(7)~~] For any violation of the code of conduct promulgated by the board pursuant to subsection (6) of KRS 321.240.

Section 26. KRS 321.360 is amended to read as follows:

(1) The board, before denying an application for license under the provisions of KRS 321.340 or before suspending or revoking any license *or restricting practice* under the provisions of KRS 321.340 and 321.350, shall set the matter down for hearing; and, at least twenty (20) days prior to the date set for the hearing it shall notify the applicant or licensee in writing, which said notice shall contain an exact statement of the charges made and the date and place of the hearing. The applicant or licensee in all hearings shall have the opportunity to be heard in person and by counsel in reference thereto. Such written notice may be served by delivery of the same personally to the applicant or licensee or by mailing same by certified mail, return receipt requested to the last known business address of such applicant or licensee. The hearing on such charges shall be at such time and place as the board shall prescribe.

(2) All hearings shall be conducted by a quorum of the board or by a hearing officer appointed by the board who shall be an attorney. Hearing officers shall not suspend, revoke or fine any licensee or restrict practice. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to cause to be prepared a record of the hearing, so that the board can discharge its functions. The hearing officer shall prepare a findings of fact and conclusions of law for submission to the board.

Section 27. KRS 321.390 is amended to read as follows:

(1) If the board, pursuant to the provisions of KRS 321.340, shall determine, after due hearing, that any applicant is not entitled to receive a license such license shall not be granted to the applicant; and if the board, after due hearing, shall determine that any licensee is guilty of a violation of the provisions of KRS 321.340 or 321.350 the license shall be suspended or revoked. The board, upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its findings of fact and its reason or reasons for refusing to grant the license or suspension of the rights of the licensee or for revocation of the license, as the case may be. The findings of fact by the board acting within its powers shall, in the absence of fraud, be conclusive, but any person aggrieved shall have the right of an appeal from the findings of the board.

(2) Upon suspension or revocation *the board shall give official notice of its action as it deems necessary* [~~of any license or certificate of license it shall be the duty of the board to give official notice of such action, under seal, to the county clerk of the county in which the holder is registered, and such name shall be marked as suspended for the period indicated or stricken from the register in accordance with such notice, and if such holder shall continue the practice he shall thereupon be subject to the penalties provided in this chapter~~].

Section 28. KRS 321.400 is amended to read as follows:

[~~(1)~~] Any party aggrieved by the action of the board in refusing to grant a license, or in suspending or revoking a license upon the basis of the provisions of KRS 321.340 and 321.350, or either of said sections, within thirty (30) days after the entry by the board of such order of refusal, revocation or suspension, may bring an action against the board in the Franklin Circuit Court to vacate or set aside the order of the board on the ground that it is unlawful or unreasonable. Service of summons or any notice upon the board may be made on the chairman or the *executive director* [~~secretary-treasurer~~] of the board, which will constitute effective service on said board and all its members.

[~~(2) The answer of the board shall be filed within twenty (20) days after the board is served with process in such action. The action will then be at issue, and stand ready for trial upon ten (10) days' notice to either party, on the equity side of the docket of the court. Injunctive relief may be granted by the court in the manner and upon the terms provided by law.~~]

Section 29. KRS 321.410 is amended to read as follows:

(1) If an action is commenced against the board, as authorized in KRS 321.400, the board shall promptly cause a certified transcript of all proceedings had and testimony taken therein to be made and filed with the clerk of the court in which the action is pending. The cost of preparing and certifying the record shall be paid to the board by the party bringing the action, and taxed as part of the costs, to be paid as directed by the court upon final determination of the action. Copies of the transcript shall be furnished at cost to any party to the proceeding. The action or appeal shall be determined by the court upon the record certified and filed as herein provided, and no new or additional evidence shall be heard or considered by the court unless it appears to the court from said record that the complaining party was denied the opportunity of a fair hearing before the board.

(2) The court shall enter a judgment either sustaining the order of the board, or setting it aside, or vacating it in whole or in part. Either party to the action may[~~, within sixty (60) days after the entry of the judgment of the circuit court,~~] appeal to the Court of Appeals.

Section 30. KRS 321.420 is amended to read as follows:

No person who has had a license revoked [~~for cause~~] shall be issued another license within five (5) years from the date of such revocation. *As a condition to ending the revocation the board shall require the individual to comply with KRS 321.260 and 321.270.*

Section 31. KRS 321.440 is amended to read as follows:

[~~(1)~~] "*Veterinary* [~~Animal~~] technician" shall mean a person[~~:~~

~~(a)~~] who has *received an associate degree in veterinary technology (AASVT), or its equivalent,* [~~successfully completed a post-high school course in the care and treatment of animals,~~] which [~~course~~] has been approved by the board, and passed the examination given by the board[~~;~~

~~(b) Or is on June 19, 1976 employed by a licensed veterinarian who is presently engaging in the practice of veterinary medicine in this state, and the veterinarian makes application to the board to permit him to use the services of said employee as an animal technician, and provided further the person seeking to be certified as an animal technician passes the examination given by the board~~].

Section 32. KRS 321.450 is amended to read as follows:

(1) *A veterinary technician shall first pass a written or oral examination or both as determined by the*

board as to the qualifications and fitness to engage in such service. An applicant shall be a graduate or second year student in good standing of an associate degree program of veterinary technology (AASVT), or its equivalent, approved by the board.

(2) Registration issued to a veterinary technician shall be inactive until such time the veterinary technician is employed by a veterinarian licensed by this Commonwealth. A veterinary technician's registration shall be considered to be inactive until registration is activated when a renewal application is signed by the employing veterinarian and returned to the board for approval. Each veterinary technician registered by the board shall pay an annual renewal fee not to exceed twenty-five dollars ($25.00) and shall attend such annual continuing education hours as the board shall authorize to renew his registration. Failure to renew shall result in the registration expiring. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of registration, a hearing shall be conducted in accordance with the provisions of KRS 321.360. [~~Any veterinarian licensed pursuant to this chapter shall make application to the board to permit him to use the services of any animal technician. Such application shall be accompanied by an application fee in an amount to be determined by the board and shall set forth such information as the board may require. There will be an annual fee, not to exceed $15.00, for each animal technician registered by the board. Failure to pay the annual renewal fee shall result in a loss of registration by the animal technician. No veterinarian practicing in this state shall utilize the services of an animal technician without prior approval of the board. Whenever it appears to the board that an animal technician is being utilized in a manner inconsistent with the approval granted, the board may withdraw such approval. In the event a hearing is requested upon the rejection of an application, or upon the withdrawal of an approval, a hearing shall be conducted in accordance with the provisions of KRS 321.360.~~

~~(2) No veterinarian who uses the services of an animal technician in accordance with the terms of any permission granted by the board shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine within the meaning of KRS 321.430. Provided, however, that any such veterinarian shall retain professional and personal responsibility of any act which constitutes the practice of veterinary medicine, veterinary surgery and veterinary dentistry as defined in this chapter when performed by an animal technician in his employ.~~]

(3) The *duties* [~~services~~] of *a veterinary* [~~an animal~~] technician shall be limited to the performance of *duties* [~~services~~] under the [~~direction and~~] supervision of a licensed veterinarian. He shall receive no fee or compensation of any kind for his services other than such salary or compensation as may be paid to him by the veterinarian, hospital or clinic by which he is employed. He shall not participate in the operation of a branch office, clinic or allied establishment unless a licensed veterinarian is present. *A veterinary* [~~An animal~~] technician, as an assistant to and under the supervision of a licensed veterinarian, may assist the veterinarian in the following:

(a) *Any and all duties in veterinary medicine and surgery except:*

1. Diagnosing;

2. Prescribing of treatment; and

3. Performance of surgical procedures.

(b) These duties include but are not limited to:

1. Obtaining and recording case histories;

2. Performance of physical examinations;

3. Preparation of patients, instruments, equipment and medicants for surgery and treatment;

4. Collection, preparation, shipping of specimens and performance of laboratory procedures; and

5. Performance of prescribed treatment and nursing care under supervision of the veterinarian.

(4) A veterinarian shall utilize the services of a veterinary technician in accordance with the terms and

provisions of KRS 321.450(3). Unauthorized utilization of veterinary technicians by veterinarians shall be considered as aiding and abetting any unlicensed person to practice veterinary medicine as described in KRS 321.430. [~~Obtaining and recording information about cases;~~

~~(b) Preparation of patients, instruments, equipment and medicants for surgery;~~

~~(c) Collection of specimens and performance of laboratory procedures;~~

~~(d) Application of wound dressings;~~

~~(e) Assisting the veterinarian in diagnostic, medical and surgical procedures.~~]

Section 33. KRS 321.990 is amended to read as follows:

(1) Any person who willfully makes any false representation to the board in applying for a license under this chapter shall be guilty of a misdemeanor and upon conviction shall be fined not more than five hundred dollars ($500) or sentenced to jail for not less than ten (10) days or more than ninety (90) days, or both.

(2) For any violation of this chapter where the board has the power to deny, revoke, or suspend a license, the board may, in lieu thereof or in addition to other remedies impose a civil penalty against the violator of not more than one thousand dollars ($1,000).

(3) All civil penalties received and collected by the board shall be deposited with the state treasurer of the Commonwealth of Kentucky, who shall place the money to the credit of the revolving fund of the board.

(4) Any civil penalty received and collected by the board may be recovered in an action brought thereon in the name of the Commonwealth of Kentucky in the circuit court.

[~~Any person who shall violate or aid in the violation of any of the provisions of KRS 321.180 to 321.430 shall be guilty of a misdemeanor and upon conviction shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500), or sentenced to jail for not less than ten (10) nor more than ninety (90) days, or both so fined and imprisoned in the discretion of the jury.~~]

Section 34. The following KRS sections are repealed:

321.220 Licensing of person holding license from another state or country — Reciprocity.

321.290 Recording of license with county clerk.

321.300 Listing and report of licenses filed with county clerk.

HB 740, AN ACT relating to pesticides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

Use of an herbicide or pesticide in an amount in excess or under conditions inconsistent with the labeling shall be subject to the penalty set out in KRS 217B.990(1).

The Committee Substitute to **HB 740** is as follows:

HB 740, AN ACT relating to pesticides.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217B IS CREATED TO READ AS FOLLOWS:

Use of an herbicide or pesticide in an amount in excess of or under conditions inconsistent with the labeling by a licensed pesticide applicator or public operator, exempting all agricultural use, shall be subject to the penalty set out in KRS 217B.990(1).

HB 784, AN ACT relating to the Kentucky Grain Insurance Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 251.620 is amended to read as follows:

(1) There is hereby created the Kentucky grain insurance corporation, a political subdivision, body politic and municipal corporation. The governing powers of the corporation shall be vested in a board of directors, composed of ten (10) members, including the commissioner of the department of agriculture, who shall serve as president; the attorney general, who shall serve as secretary; the state treasurer, who shall serve as treasurer; the state auditor; two (2) representatives from the Kentucky Feed and Grain Association selected by the commissioner; two (2) representatives from the Kentucky Farm Bureau Federation selected by the commissioner; and two (2) representatives from the Kentucky National Farmers Organization selected by the commissioner. *The commissioner of agriculture, attorney general, state treasurer, and state auditor may each designate a person to represent him.* The Kentucky Feed and Grain Association, the Kentucky Farm Bureau Federation and the Kentucky National Farmers Organization shall each submit a list of four (4) names to the commissioner from which the commissioner shall make his appointments. Seven (7) members of the board shall constitute a quorum at any meeting of the board and the affirmative vote of seven (7) members shall be necessary for any action taken by the board at a meeting, except that a lesser number may adjourn a meeting from time to time. Each member of the board shall be given at least five (5) days' written notice of the meetings. No vacancy in the membership of the board shall impair the right of a quorum to exercise all the rights and perform all the duties of the board and corporation.

(2) The corporation shall have the following powers, together with all powers incidental or necessary to the discharge thereof in corporate form:

(a) Perpetual succession by its corporate name as a corporate body;

(b) Alter and repeal bylaws, not inconsistent with the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740, for the regulation and conduct of its affairs and business;

(c) Adopt and make use of a corporate seal and to alter the same at pleasure;

(d) Avail itself of the services of the department of agriculture, the attorney general, and the state auditor when deemed necessary in the execution of the duties of the board;

(e) Receive funds assessed by the department under KRS 251.640;

(f) Administer the Kentucky grain insurance fund by investing any funds of the corporation that the board may determine are not presently needed for any of its corporate purposes;

(g) Receive funds from the grain indemnity trust fund for deposit into the Kentucky grain insurance fund;

(h) Upon the request of the commissioner, to make payment from the Kentucky grain insurance fund to the grain indemnity trust fund, when such payment is necessary for the purpose of compensating claimants in accordance with the provisions of KRS 251.670; and

(i) Have such powers as may be necessary or appropriate for the exercise of the powers herein specifically conferred upon the corporation and all such incidental powers as are customary in corporations.

(3) No director or other person acting on behalf of the corporation shall be personally liable for damage or injury resulting from the performance of his duties hereunder.

HB 992, AN ACT relating to the department of agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.250 is amended to read as follows:

(1) As used in this section unless the context otherwise requires:

(a) "Department" means the department of agriculture.

(b) "Commissioner" means the commissioner of agriculture.

(c) "Purebred" means registered by the appropriate association, organization or authority.

(d) Neither "show" nor "exhibition" nor "show, exhibition and sale" shall include those held as a part of or in connection with any county or other local fair.

(2) The department shall aid, encourage, foster and promote the development and the improvement of the purebred cattle industry in Kentucky. To that end, the department shall promote, aid and assist in the promotion of annual shows and sales of purebred cattle in Kentucky with the object and purpose of establishing Kentucky as one of the greatest centers in the United States for the breeding, producing, raising, exhibition, showing and sale of purebred cattle. The general assembly shall make appropriations from the general expenditure fund for each fiscal year to effectuate that purpose.

(3) From the appropriations made pursuant to subsection (2) of this section, six thousand dollars ($6,000) shall be used and applied in each fiscal year in each of the following events: Not less than four thousand dollars ($4,000) nor more than five thousand dollars ($5,000) shall be used and applied to the payment of premiums for the largest purebred Aberdeen-Angus, purebred Hereford, purebred Shorthorn, purebred Polled Hereford, purebred Charolaise, purebred Jersey, purebred Holstein-Friesian, purebred Guernsey, purebred Ayrshire, purebred Simmental, purebred Chianina, purebred Maine Anjou, Murray Grey, purebred Brown Swiss, purebred Limousin, purebred Santa Gertrudis, purebred Beefalo, [~~and~~] purebred Red Poll, *and purebred Brangus* show and sale which may be held in Kentucky in each fiscal year which is open on equal terms and conditions to all breeders in the United States who are eligible to enter any of the above shows and sales. The remainder shall be used and applied by the commissioner for appropriate advertising of the shows and sales in such livestock journals and other advertising media as the commissioner may determine.

(4) Any show, exhibition and sale of purebred cattle to be eligible to receive the appropriations must provide that the qualifications for entries in any class are equal to the qualifications for entries in all other classes receiving appropriations and that entries in all classes are open upon equal terms to the breeders of such cattle in all of the states of the United States, and the Dominion of Canada may be included. The commissioner shall determine with respect to each of the breeds of cattle which show, exhibition and sale is the largest to be held in Kentucky in each year and, in making that determination, he may consider shows, exhibitions and sales which have been held in Kentucky in any previous year and in any previous two-year period.

(5) The remainder of the appropriations made pursuant to subsection (2) of this section for each fiscal year shall be used and applied by the department as follows, to-wit: At least five thousand dollars ($5,000) shall be used to add premium money otherwise available for shows and exhibitions of purebred dairy cattle to be held in Kentucky at the places the commissioner determines; and the remaining balance shall be used and applied by the department in advertising and in promoting the purebred dairy cattle shows and exhibitions in such livestock journals and other advertising media as the commissioner may determine.

(6) No show or exhibition and no show, exhibition and sale of any purebred cattle shall qualify for or be eligible to receive any part of an appropriation made under this section unless and until there is provided and made available from other sources an amount for premiums equal to or in excess of the respective appropriations made available pursuant to this section for the show or exhibition or show, exhibition and sale, or unless there is provided and made available from some other source an amount for premiums equal to or in excess of the amount which the commissioner may allocate to or for the show or exhibition or show, exhibition and sale under the authority vested in him by this section.

The Committee on Agriculture and Small Business reported **HB 701**, **HB 712**, **HB 735** and **HB 993** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 701, AN ACT relating to dogs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.135 is amended to read as follows:

(1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of one dollar and fifty cents ($1.50) for each dog. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens shall be agents of the commonwealth in the collection of the license fees provided for herein, unless the department determines, with the approval of the governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the same, dog wardens shall be allowed to retain the sum of twenty-five cents (25) for each license. The balance of the license fee collected shall be paid to the department on or before the 15th day of each next succeeding month and shall be credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in such enforcement, the department may allow such portions of the license fee to be so retained by the counties.

(2) Any county may choose to issue the license in conjunction with effective dates of a valid rabies vaccination provided the dog shall be licensed each fiscal year.

HB 712, AN ACT relating to the retail sale of agricultural products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter do not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, [~~feed for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption,~~] and commercial fertilizer to be applied on land the products from which are to be used for food for human consumption or are to be sold in the regular course of business;

provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that such tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) *Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;*

(9) Machinery for new and expanded industry;

(10)[~~(9)~~] Farm machinery. As used in this section the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery" as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of such machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(11)[~~(10)~~] Property which has been certified as a pollution control facility as defined in KRS 224.850, and all materials, supplies and repair and replacement parts purchased for use in the operation or maintenance of such facilities used specifically in the steel making process. The exemption provided in this subsection for materials, supplies and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1991;

(12)[~~(11)~~] Tombstones and other memorial grave markers;

(13)[~~(12)~~] On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of such facilities;

(14)[~~(13)~~] Gasoline, special fuels, and liquefied petroleum gas used to operate or propel stationary engines or tractors for agricultural purposes. As used in this subsection:

(a) "Gasoline" is defined as in KRS 138.210(4);

(b) "Special fuels" is defined as in KRS 138.560(3);

(c) "Liquefied petroleum gas" is defined as in KRS 234.100(1); and

(d) "Agricultural purposes" is defined as in KRS 138.343(4);

(15)[~~(14)~~] Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but does not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(16)[~~(15)~~] Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(17)[~~(16)~~] Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use will not subject the property to the taxes imposed by this chapter;

(18)[~~(17)~~] Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(19)[~~(18)~~] Any property to be incorporated into the construction, rebuilding, modification or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1991; and

(20)[~~(19)~~] Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States department of agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program.

HB 735, AN ACT relating to theft.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of theft of milk cases, cabinets, or other dairy equipment by unlawful taking or disposition when he:

(a) Receives, takes, stores, buys, sells, disposes of, uses, or otherwise possesses any milk case, milk cabinet, or other dairy equipment without the consent of the owner;

(b) Refuses to return any milk case, cabinet, or other dairy equipment to the owner upon demand; or

(c) Defaces, erases, obliterates, covers up, or otherwise removes or conceals any name, registered trademark, or other business identification of an owner of a milk case, cabinet, or other dairy equipment for the purpose of destroying or removing from the milk case, cabinet, or other dairy equipment evidence of its ownership.

(2) Theft of milk cases, cabinets, or other dairy equipment is punishable by a minimum fine of one hundred dollars ($100) and a maximum fine of three hundred dollars ($300).

HB 993, AN ACT relating to a linked investment loan program for agricultural diversification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The general assembly finds the following:

(a) That over the past six (6) years many of Kentucky's farmers and much of Kentucky's agricultural economy has experienced economic stagnation or decline because of falling market prices, high interest rates and, in many cases, poor weather; and

(b) That Kentucky's agricultural economy is too heavily dependent on a few traditional crops such as tobacco, grains and soybeans.

(2) The general assembly declares that it shall be the public policy of the Commonwealth through the provisions of this Act to stimulate the agricultural economy of this state by encouraging agricultural diversification in Kentucky.

(3) The linked investment program provided for in this Act is intended to inject needed capital and to provide statewide availability of lower cost funds for lending purposes that will stimulate existing business and encourage new business in the area of producing, processing and marketing nontraditional agricultural, horticultural, livestock and poultry crops.

SECTION 2. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) "Linked investment" means a repurchase agreement placed by the state investment commission with an eligible lending institution at the rate designated according to the provisions of Section 4, subsection (3) of this Act.

(2) "Eligible lending institution" means a qualified public depository or financial institution which is

eligible to make commercial loans, which chooses to participate in the linked investment program, and which agrees to lend the value of such deposits to small agricultural processing or marketing businesses and to agricultural production businesses at a reduced interest rate calculated by the state investment commission according to the provisions of subsection (3) of Section 4 of this Act.

(3) "Eligible agricultural production business" means any person who has all of the following characteristics:

(a) Is entering or actively engaged in agricultural, horticultural, livestock or poultry production endeavors in Kentucky;

(b) Is a Kentucky citizen;

(c) Shows gross sales not in excess of one million dollars ($1,000,000) annually;

(d) Derives at least three-fourths (3/4) of his annual gross income from farming or other agricultural endeavors and not more than twenty thousand dollars ($20,000) annual net income from all other sources, exclusive of a spouse's earned income; and

(e) Holds no position as officer or director of an eligible lending institution.

(4) "Eligible small agricultural processing or marketing business" means any person who has all of the following characteristics:

(a) Is entering or actively engaged in the processing or marketing of Kentucky agricultural products;

(b) Is headquartered in this state;

(c) Maintains offices and operating facilities in this state and transacts business in this state;

(d) Employs fewer than the equivalent of fifty (50) full-time employes, the majority of whom are residents of Kentucky;

(e) Has gross sales that do not exceed one million dollars ($1,000,000) annually;

(f) Is organized for profit or is organized as a cooperative; and

(g) Holds no position as officer or director of an eligible lending institution.

SECTION 3. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) The state investment commission may invest in linked investments as provided for in KRS 42.510 as amended, provided that at the time of placement of the linked investment not more than ten percent (10%) of the state's funds determined by the state investment commission to be eligible for bank investments are so invested. The total amount so deposited at any one time shall not exceed, in the aggregate, ten million dollars ($10,000,000).

(2) One-half (1/2) of the total investment, or up to five million dollars ($5,000,000) shall be invested in low interest loans for agricultural production endeavors. The investment vehicle for the agricultural production business loans shall be either the Commonwealth's master repurchase agreement negotiated as follows: an investment of two (2) years with a variable rate to be adjusted annually based upon the state investment commission's repurchase agreement rate. Any annual variations shall be passed on to the borrower. Production loans may be renewed upon reapplication for one (1) additional year when continuing need is shown and as funds are available.

(3) One-half (1/2) of the total investment, or up to five million dollars ($5,000,000) shall be invested in low interest loans for small agricultural processing or marketing business expansion or development. The investment vehicle for the small agricultural processing or marketing business loans shall be the same as that provided for agricultural production business loans in subsection (2) of this section. However, processing and marketing loans may be renewed for two (2) additional years beyond the limits imposed in subsection (2) of

this section, allowing a maximum loan length of five (5) years.

(4) Based upon loan activity and applications received, the state investment commission may, after the end of one (1) year of administration, increase the five million dollars ($5,000,000) ceiling stipulated in subsections (2) and (3) of this section. However, in no case shall the aggregate of loans exceed ten million dollars ($10,000,000).

(5) The state investment commission may accept or reject a linked investment package or any portion thereof, based on the ratio of state funds to be deposited to jobs sustained or created.

(6) Upon acceptance of the linked investment package or any portion thereof, the state investment commission may place a repurchase agreement with the eligible lending institution at the rate determined by the investment commission according to the provisions of subsection (3) of Section 4 of this Act.

(7) The state investment commission reserves the right to alter the loan rate to the lender, not the borrower, if linked investment program auditors determine that the lending institution has violated standards of the low interest loan program.

(8) In considering which eligible small agricultural processing or marketing businesses or agricultural production businesses should receive reduced rate loans, the state investment commission shall take the following conditions into consideration:

(a) The economic needs of the area in which the business is located;

(b) The number of in-state jobs to be created or preserved by the receipt of the loan;

(c) Current profitability of an existing enterprise;

(d) The ability of the borrower to demonstrate his enterprise can be profitable;

(e) The evidence that the money saved on the reduced interest rate loan will provide substantial assistance for short or long-term profitability; and

(f) Evidence that amount loaned will be used exclusively to finance in-state operations.

(9) The state investment commission, annually, by February 1, shall make a report on the linked investment program for the preceding year to the governor and to the legislative research commission who shall, in turn, transmit it to the appropriate standing committees for consideration. The report must include information regarding the nature, terms, and amounts of the loans upon which the linked investments were based, and the eligible small agricultural processing or marketing businesses or agricultural production businesses who received the loans.

SECTION 4. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Qualified public depositories in Kentucky shall have the option of participating in either the state investment commission's master repurchase agreement program, the linked investment program exclusively, or both.

(2) An eligible lending institution shall enter into a linked investment agreement with the state investment commission which shall include requirements necessary to carry out the purposes of the linked investment program. Such requirements shall be established in administrative regulations promulgated by the finance and administration cabinet.

(3) The eligible lending institution that desires to receive a linked investment shall agree to loan such funds to borrowers under the following terms:

(a) Maturity dates of the loan will be set as agreed to between the financial institution and the borrower; and

(b) The rate of interest on the loan made by a qualified public depository shall be three hundred (300) basis points below the state investment commission's repurchase agreement rate setting formula on the day the application is accepted.

(4) An eligible lending institution that desires to receive a linked deposit shall accept and review applications for loans from eligible small agricultural processing or marketing and agricultural production businesses. The lending institution shall assume all responsibility for credit underwriting, and shall apply all usual lending standards to determine the creditworthiness of each applicant.

(5) The eligible lending institution shall forward to the state investment commission a linked investment loan package, in the form and manner as prescribed by the state investment commission. The package shall include such information as required by the state investment commission, including the amount of the loan requested and the number of jobs to be created or sustained by each eligible business.

(6) The eligible lending institution shall charge no penalty for early payback of the linked deposit loan.

(7) Applications for renewal of repurchase agreements shall be accompanied by a status report on linked deposit loans.

(8) The eligible lending institution is responsible for payback on the retirement of any loan made under the linked deposit program.

(9) No loan may exceed:

(a) One hundred thousand dollars ($100,000) in state money for an agricultural production business; or

(b) Two hundred fifty thousand dollars ($250,000) for a small agricultural processing or marketing business.

(10) The eligible lending institutions shall charge a closing fee, payable on the closing date, of one-quarter (1/4) percentage point of the loan amount. This fee shall be forwarded to the state treasurer to be used to pay the costs of operating and auditing this program. An interest surcharge of up to one and one-half (1 1/2) percentage points may be added to the interest rate by the eligible lending institution to cover its cost of operating the program, the provisions of subsection (3) of Section 4 of this Act not withstanding. Other than the usual and customary charges, the borrower shall not be charged any other closing costs, or origination fees.

(11) The state and the state investment commission are not liable to any eligible lending institution in any manner for payment of the principal or interest on the loan to an eligible small or agri business. Any delay in payments or default on the part of a borrower does not in any manner affect the deposit agreement between the eligible lending institution and the state.

SECTION 5. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

Monies obtained from the linked investment loan program by eligible businesses may be used for annual working capital for production costs, capital expense, but not debt refinancing. In no case shall monies obtained from the linked investment loan program be used to purchase stock in any eligible lending institution.

SECTION 6. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) Applications for linked investment loans shall:

(a) Be made on forms of lending institution which include financial statement of borrower;

(b) Include most recent federal income tax form 1040, pages one (1) and two (2), and Schedule F or other schedules appropriate to a loan application from a partnership or corporation; and,

(c) Include statement from lending institution's chief executive officer or his designee that the loan conforms, in his best judgment, to the intent of the program.

(2) Whoever knowingly makes a false statement concerning an application for a linked investment loan shall be charged with the offense of issuing a false financial statement, and will be subject to the penalty provided for such offense in KRS 411.070.

SECTION 7. A NEW SECTION OF KRS CHAPTER 41 IS CREATED TO READ AS FOLLOWS:

(1) At the direction of the finance and administration cabinet, the linked investment loan program shall be monitored by the department of financial institutions, the department of agriculture and the commerce cabinet.

(2) The treasury of the Commonwealth shall provide primary administrative support for the program at the direction of the state investment commission.

(3) The finance and administration cabinet is hereby authorized to promulgate rules and regulations necessary to the proper administration of the linked investment program.

Section 8. KRS 42.510 is amended to read as follows:

(1) The state investment commission shall, in a timely manner, consistent with the goal of maximizing the return on invested funds, fix the rate of interest to be paid by qualified public depositories upon investment deposits.

(2) Time deposits in Kentucky depositories made pursuant to this chapter shall bear interest at a rate which would be equal to one hundred percent (100%) of the average full fair market rate of interest for such deposits in Kentucky and contiguous states determined from quotes from not less than seven (7) banks, at least four (4) of which shall be Kentucky banks. Those rates shall be recorded by the state investment commission.

(3) The state investment commission may invest through eligible lending institutions as defined in subsection (2) of Section 2 of this Act, in a linked investment program to provide low cost funds for reduced rate loans to eligible small agricultural processing or marketing businesses and agricultural production businesses. The linked investment program loan rate shall be fixed by the state investment commission in the manner provided under subsection (3) of Section 4 of this Act.

Section 9. KRS 42.520 is amended to read as follows:

(1) The state investment commission shall assign public funds to public depositories by priority based on evidence that the public depository serves the convenience and economic development needs of the communities in which they are chartered to do business. The convenience and needs of communities include the need for credit services as well as deposit services.

(2) The state investment commission shall only assign priorities to public depositories on the basis of compliance with regulations promulgated pursuant to KRS Chapter 13A.

(3) The state investment commission may invest through eligible lending institutions, as defined in subsection (2) of Section 2 of this Act, in a linked investment program, and shall assign priority to borrowers based on the provisions of subsection (8) of Section 3 of this Act.

Section 10. The provisions of this Act shall expire on June 30, 1990.

The Committee Amendment No. 1 to **HB 993** is as follows:

Amend printed copy of **HB 993** on page 9, line 12, after the word "*to*" by deleting the following: "*one and one-half (1 1/2)*"; and

Add in lieu thereof the following language: "*three (3)*"

The Committee on Banking and Insurance reported **HB 513**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 513, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If a consumer purchases insurance from an agent licensed in this Commonwealth, the agent shall remain the agent of record for that insured. If the insurer terminates the agent's contract, the agent shall continue to provide customary services to the insured. The insurer shall provide the agent with a minimum degree of authority necessary to provide customary services to the insured and shall provide the same levels of compensation for these services which were in effect prior to the termination of the agency contract.

(2) Subsection (1) of this section shall not apply if one (1) or more of the following conditions exist:

(a) The agent of record has had its license suspended or revoked by the department;

(b) The agent of record is indebted to the insurer;

(c) The insured has supplied the insurer with a written request that its agent of record be changed to another agent of the insurer;

(d) The agent of record has authorized transfer of this account to another licensed agent of the insurer;

(e) The commissioner has determined after a public hearing that continuation of this relationship is not in the best interest of the public; or

(f) The agent of record is under an exclusive contract or a contract requiring the agent to submit all eligible business to an insurer or group of insurers under a common management.

(3) Subsection (1) of this section shall not apply to any transaction in which the insurer has the right to procure insurance on the risk when the policy expires.

The Committee Substitute to **HB 513** is as follows:

HB 513, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) On or after the effective date of this Act, no person licensed as a general lines agent as defined in KRS 304.9-030(1) shall write, issue, nonrenew or place into effect, as agent of record, any policy of motor vehicle insurance covering a private passenger automobile or a pick-up truck with a load capacity of fifteen hundred (1500) pounds or less, which has been sold as security required by subtitle 39 of KRS Chapter 304, or any policy of property insurance covering the building or contents of a single family dwelling, with any authorized insurer unless the agent then has in effect with the insurer a written company and agent agreement which provides that in the event of termination of the agreement by the insurer, except for good cause shown, the insurer will not refuse to renew and continue in force for a period of at least one (1) year from the date of termination any policy described in this subsection solely on the ground that the original producing agent of record no longer represents the insurer.

(2) The company and agent agreement required by subsection (1) of this section shall further provide that the termination of the agreement, except for good cause shown, shall be effective on a date at least ninety (90) days after the insurer notifies the agent by delivery of the notice to the agent or by mailing the notice to him

certified mail postage prepaid.

(3) Each insurer shall pay to the agent of record at the time any policy is renewed under the requirements of subsection (1) of this section a service commission equal to the commission in effect at the time of termination. In the case of an exclusive agent, the commission shall be based on the contract in effect at the time of renewal.

(4) Good cause shown shall be deemed to exist if one (1) or more of the following conditions exists:

(a) The agent of record has had its license suspended or revoked by the department;

(b) The agent of record is indebted to the insurer;

(c) The insured has supplied the insurer with a written request that its agent of record be changed to another agent of the insurer;

(d) The agent of record has authorized transfer of this account to another licensed agent of the insurer;

(e) The commissioner has determined after a public hearing that continuation of this relationship is not in the best interest of the public;

(f) The agent of record is under an exclusive contract or a contract requiring the agent to submit all eligible business to an insurer or group of insurers under a common management; or

(g) The agent has produced an underwriting loss for the insurer for either three (3) consecutive years or four (4) out of five (5) of his most recent calendar years of service.

SECTION 2. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

General lines insurance agents shall not refuse to do business with any person solely because the person's insurance shall be procured through a residual market mechanism as defined in KRS 304.13-011(8).

The Committee on Cities reported **HB 584** with Committee Substitute attached thereto, **HB 808** with Committee Substitute attached thereto, **HB 840**, **HB 852**, **HB 907**, **HB 961**, and **HB 1017** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 584, AN ACT relating to retirement annuities in urban-county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.600 is amended to read as follows:

(1) It is the intention of KRS 67A.360 to 67A.690 that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.851 to 95.884 inclusive, for cities of the second class becoming urban-county governments, which sections shall be without force and effect, insofar as applicable to such urban-county governments, but said sections shall remain in full force and effect as relates to other cities of the second class.

(2) The fund created by KRS 67A.360 to 67A.690 shall succeed to and assume as of July 1, 1974, all assets of such pension funds, and shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect, *except as provided in subsection (3) of this section.*

(3) (a) Persons who retired under the provisions of KRS 95.520 to 95.620, or 95.851 to 95.884 in a city which subsequently was merged into an urban-county government, or their surviving spouses or eligible children, shall be granted an annual cost-of-living increase in their retirement or survivor's annuity of two percent (2%) compounded, from July 1, 1974 until the effective date of this Act. The survivor's annuity shall be determined

as if the retired member's annuity had been increased annually by two percent (2%) compounded from the date of retirement until the date of death, but if any member or survivor annuity is less than one hundred and fifty dollars ($150) per month, it shall first be revised to one hundred and fifty dollars ($150) per month, effective July 1, 1974, before calculating the retroactive annual increase. For purposes of calculation, the member's or survivor's first increase shall occur July 1, 1974, but only after the member was retired for one (1) year or attained age fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51), whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51), unless retirement was under disability in which case age and length of retirement criteria shall not apply.

(b) A retired member or his surviving spouse or surviving children below the age of eighteen (18) shall receive a lump sum retroactive payment of the annuity increase by August 1, 1988. The retroactive payment to the surviving spouse or eligible children shall include the retroactive payment due the deceased member. If both the member and the spouse are deceased and there are no eligible surviving children, no retroactive payment shall be made.

(c) After receipt of the retroactive increases, persons affected by this section shall be granted the same annual increase granted to retirees pursuant to KRS 67A.690(1), and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded two percent (2%) increases pursuant to paragraph (a) of this subsection. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall continue to receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired pursuant to KRS 67A.690(1) shall apply.

Section 2. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained fifty-one (51) years of age, whichever is later or when he would have been retired for one (1) year or attained fifty-one (51) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2) Notwithstanding the provisions of subsection (1) any member who retires under disability shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall [~~not~~] be compounded [~~and shall be based on the original annuity~~] until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained fifty-one (51) years of age, whichever is later, or would have been retired for one (1) year or would have attained fifty-one (51) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall be granted an annual cost-of-living increase in the retirement or survivor's annuity of two percent (2%) compounded from the date of retirement until the effective date of this Act. For purposes of calculation, unless the member retired under disability, the member's or survivors first increase shall occur after the member was retired for one (1) year or attained the age of fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51) whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51). In the case of retirement under disability, no age or length of retirement criteria shall apply.

(b) A retired member or his surviving spouse, or children below the age of eighteen (18) or age twenty-three (23), if engaged in full-time education, shall receive a lump sum retroactive payment of the annuity increase by August 1, 1988. The retroactive payment to the surviving spouse or eligible children shall include the retroactive payment due to the deceased member. If both the member and the spouse are deceased, and there are no eligible surviving children, no retroactive payment shall be made.

(c) The retroactive payment shall be a net figure, determined by subtracting from the figure determined pursuant to paragraph (a) of this subsection annuity increases granted to the retired member or surviving spouse or eligible children pursuant to subsections (1) or (2) of this section.

(d) After receipt of the retroactive increases, members of age fifty-one (51) or more affected by this subsection, or survivors of a member who would have been fifty-one (51) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980 or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded two percent (2%) increases pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1988. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall continue to receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired July 15, 1980 or thereafter shall apply.

The Committee Substitute to **HB 584** is as follows:

HB 584, AN ACT relating to retirement annuities in urban-county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.600 is amended to read as follows:

(1) It is the intention of KRS 67A.360 to 67A.690 that the fund herein created shall supersede and take the place of the pension fund established under KRS 95.851 to 95.884 inclusive, for cities of the second class becoming urban-county governments, which sections shall be without force and effect, insofar as applicable to such urban-county governments, but said sections shall remain in full force and effect as relates to other cities of the second class.

(2) The fund created by KRS 67A.360 to 67A.690 shall succeed to and assume as of July 1, 1974, all assets of such pension funds, and shall continue to make payment of all annuities, pensions, and benefits granted by superseded pension funds at the rates previously fixed and under the conditions previously in effect, *except as provided in subsection (3) of this section.*

(3) (a) Persons who retired under the provisions of KRS 95.520 to 95.620, or 95.851 to 95.884 in a city which subsequently was merged into an urban-county government, or their surviving spouses or eligible children, shall be granted an annual cost-of-living increase in their retirement or survivor's annuity of two percent (2%) compounded, from July 1, 1974 until the effective date of this Act. The survivor's annuity shall be determined as if the retired member's annuity had been increased annually by two percent (2%) compounded from the date of retirement until the date of death. For purposes of calculation, the member's or survivor's first increase shall occur July 1, 1974, but only after the member was retired for one (1) year or attained age fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51), whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51), unless retirement was under disability in which case age and length of retirement criteria shall not apply.

(b) A retired member or his surviving spouse or surviving children below the age of eighteen (18) shall receive a lump sum retroactive payment of the annuity increase by August 1, 1988. The retroactive payment to the surviving spouse or eligible children shall include the retroactive payment due the deceased member. If both the member and the spouse are deceased and there are no eligible surviving children, no retroactive payment shall be made.

(c) After receipt of the retroactive increases, persons affected by this section shall be granted the same annual increase granted to retirees pursuant to KRS 67A.690(1), and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded two percent (2%) increases pursuant to paragraph (a) of this subsection. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall continue to receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired pursuant to KRS 67A.690(1) shall apply.

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to 1972 Acts Chapter 185, Section 1. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to 1972 Acts Chapter 185, Section 1.

Section 2. KRS 67A.690 is amended to read as follows:

(1) When a member has been retired for one (1) year or attained fifty-one (51) years of age, whichever is later or when he would have been retired for one (1) year or attained fifty-one (51) years of age in the event the member is deceased, the board shall increase his retirement annuity or the annuity paid to his widow or dependent children by not less than two percent (2%) nor more than five percent (5%) per year, compounded annually; and such increase shall be determined and granted annually thereafter by the board.

(2) Notwithstanding the provisions of subsection (1) any member who retires under disability shall be entitled to an increase in his retirement annuity, or in the event he is deceased, in the annuity paid to his widow or dependent children by two percent (2%) per year; and such increase shall be granted annually thereafter by the board. Such increase shall [~~not~~] be compounded [~~and shall be based on the original annuity~~] until and including the date upon which the member would have been retired for one (1) year or the date upon which he has attained fifty-one (51) years of age, whichever is later, or would have been retired for one (1) year or would have attained fifty-one (51) years of age in the event the member is deceased. Thereafter, the annuity paid to the member or to his widow or to the guardian of his minor children shall be increased as provided in subsection (1) of this section.

(3) (a) A member who retired pursuant to the provisions of KRS 67A.360 to 67A.690 prior to July 15, 1980, or pursuant to KRS 67A.690(2) after July 15, 1980, or his surviving spouse or eligible surviving children, shall be granted an annual cost-of-living increase in the retirement or survivor's annuity of two percent (2%) compounded from the date of retirement until the effective date of this Act. For purposes of calculation, unless the member retired under disability, the member's or survivors first increase shall occur after the member was retired for one (1) year or attained the age of fifty-one (51), whichever was later, or would have been retired one (1) year or reached the age of fifty-one (51) whichever was later, in the event the member died before being retired one (1) year or reaching the age of fifty-one (51). In the case of retirement under disability, no age or length of retirement criteria shall apply.

(b) A retired member or his surviving spouse, or children below the age of eighteen (18) or age twenty-three (23), if engaged in full-time education, shall receive a lump sum retroactive payment of the annuity increase by August 1, 1988. The retroactive payment to the surviving spouse or eligible children shall include the retroactive payment due to the deceased member. If both the member and the spouse are deceased, and there are no eligible surviving children, no retroactive payment shall be made.

(c) The retroactive payment shall be a net figure, determined by subtracting from the figure determined pursuant to paragraph (a) of this subsection annuity increases granted to the retired member or surviving spouse or eligible children pursuant to subsections (1) or (2) of this section.

(d) After receipt of the retroactive increases, members of age fifty-one (51) or more affected by this subsection, or survivors of a member who would have been fifty-one (51) or more in the event the member is deceased, shall be granted the same annual increase granted to retirees who retired July 15, 1980 or thereafter, pursuant to subsection (1) of this section, and the annuity on which this cost-of-living increment is based shall be the annuity level reached through the addition of annual compounded two percent (2%) increases pursuant to paragraph (a) of this subsection, but not less than the annuity level in effect prior to July 15, 1988. If the member has not attained the age of fifty-one (51) or would not have attained the age of fifty-one (51) in the event the member is deceased, then the member or survivor shall continue to receive increases of two percent (2%) compounded annually until the member attains or would have attained age fifty-one (51), at which time the same annual increase granted to retirees who retired July 15, 1980 or thereafter shall apply.

(4) The provisions of subsection (3) of this section shall not apply to any retiree or surviving spouse who receives a minimum retirement annuity, annually adjusted, pursuant to KRS 67A.430. If, in the future, any retiree or spouse annuity granted pursuant to this section falls below the adjusted minimum annuity, the affected retiree or spouse shall be granted, from that time forward, the adjusted minimum annuity calculated pursuant to KRS 67A.430.

HB 808, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit for employment in regular full-time positions between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period; and

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall, if its local pension system provides a defined benefit, select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

(8) Any city which closes a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participates in the system under the alternate participaton plan shall certify that its police and firefighters are working in hazardous positions. If any such city entered the county employes retirement system on January 1, 1988, or thereafter but before the effective date of this Act and did not choose hazardous duty coverage for its police and firefighters, it shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the county employes retirement system for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

The Committee Substitute to **HB 808** is as follows:

HB 808, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit for employment in regular full-time positions between July 1, 1958 and the participation date of the county. Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period; and

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by

the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall, if its local pension system provides a defined benefit, select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

(8) Any city which closed a police and firefighter pension plan to new members between January 1, 1988, and July 15, 1988, and participated in the system under the alternate participaton plan shall, if its police and firefighters were not covered by social security, be required to certify that its police and firefighters are working in hazardous positions, and shall offer its police and firefighters in service at the time of entry a second option to participate under hazardous duty coverage if they were not offered hazardous duty coverage at the time of their first option. The provisions of subsection (3)(b) of this section notwithstanding, a city affected by this subsection may, at its option, extend its payment schedule to the county employes retirement system for alternate participation to thirty (30) years at the rate actuarially assumed by the board.

Section 2. KRS 15.460 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand five hundred dollars ($2,500) for each qualified police officer it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, *but no more than the required employer's contribution to the county employes retirement system hazardous duty category.* In the case of county employes retirement system membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or non-hazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

Section 3. KRS 95A.250 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local government shall be entitled to receive annually a supplement of two thousand five hundred dollars ($2,500) for each qualified professional fire fighter it employs, plus an amount equal to the required employer's contribution on the supplement to the defined benefit pension plan to which the officer belongs, *but no more than the required employer's contribution to the county employes retirement system hazardous duty category.* In the case of county employes retirement system membership, the pension contribution on the supplement shall be paid whether the officer enters the system under hazardous duty coverage or non-hazardous coverage. The local unit of government shall pay the amount received for retirement coverage to the appropriate retirement system to cover the required employer contribution on the pay supplement. Should the foundation program funds be insufficient to pay employer contributions to the system, then the total amount available for pension payments shall be prorated to each eligible government so that each receives the same percentage of required pension costs attributable to the cash salary supplement.

(2) Each qualified professional fire fighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications

brought to the local government. The supplement paid each qualified fire fighter shall be in addition to his regular salary.

HB 840, AN ACT relating to administration of oaths to city officials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 83A IS CREATED TO READ AS FOLLOWS:

In cities of the second through sixth class, the official oath of any city officer, whether elected or appointed, may be administered by the mayor of the city for which the officer serves except that a mayor's official oath shall be administered by such person otherwise provided by law.

HB 852, AN ACT relating to urban county service districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.150 is amended to read as follows:

The territory of an urban-county government may be divided into service districts. Each service district shall constitute a separate tax district within which the urban-county government shall levy and collect taxes in accordance with the kind, type, level and character of the services provided by the urban-county government in each of these districts. The legislative body of the urban-county government may abolish or alter existing districts, or create new districts *and, notwithstanding any contrary provision of the comprehensive plan of an urban-county government, may establish partial urban services districts into which one (1) or more services not provided within the full urban services district shall be expanded or extended, and may establish urban services districts into which all of the services provided within the full urban services district shall be expanded or extended along with one (1) or more other services not provided within the full urban services district.*

HB 907, AN ACT relating to municipal public ways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 82.400 is amended to read as follows:

(1) *If* [~~Whenever~~] any person desires to offer for dedication by recorded plat any public way or easement within the city limits, he shall file with the city legislative body a map or plat of the territory bounded, intersected or immediately adjacent to the proposed public way or easement, showing the proposed name, nature and dimensions of the public way or easement offered for dedication. If the city legislative body decides the proposed dedication would be beneficial to the public interest and suitable for the immediate or future acceptance of the city, it shall approve the map or plat, and the mayor shall subscribe a certificate of approval on the map and acknowledge the execution thereof before any public officer authorized to take acknowledgments of deeds. The map or plat may then be recorded in the office of the county clerk.

(2) *Where subdivision regulations have been adopted as provided in KRS Chapter 100, and where streets or public ways as dedicated on the final subdivision plat have been constructed, inspected, and approved in accordance with the subdivision regulations, then the procedure for filing the map or plat with the city legislative body as required in subsection (1) of this section shall be waived, and the dedicated street or public way shall automatically be deemed beneficial to the public interest, subject to acceptance and maintenance by the city forty-five (45) days after inspection and final approval and shall be a public way for all purposes* [~~Property dedicated as a public way or easement by the owner within any territory subsequently annexed to a city shall not be a public way or easement of the city until dedication by the owner has been accepted by ordinance~~].

(3) When any property has been opened to the unrestricted use of the general public for five (5) consecutive years, it shall be conclusively presumed to have been dedicated to the city as a public way or easement, subject to acceptance by the city. The city may, at any time after the expiration of five (5) years from the time the property is opened to the public, pass an ordinance declaring it so dedicated, and accepting the dedication, whereupon it shall be a public way or easement of the city for all purposes. The lack of an actual dedication to the city, or of a record title on the part of the city, shall be no defense against the collection

of any tax that may be levied against property abutting thereon for the payment of the cost of any improvement constructed thereon by order of the city. Nothing herein shall be construed to require the expiration of five (5) years to raise a presumption of dedication in any case where, under any rule of law in force in this state, a dedication would be presumed in less than five (5) years. Provided, however, that no property of a carrier by rail, as defined in KRS 276.010(3), shall be presumed to be dedicated as a public way or easement under this section or any other rule of law in force in this state unless the carrier consents to said dedication in writing.

HB 961, AN ACT relating to urban renewal agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 99.350 is amended to read as follows:

(1) If the council of any community by resolution finds and declares (a) that there exist in the community slum areas or blighted areas, (b) that there is need in the community for the exercise of powers, functions and duties conferred by KRS 99.330 to 99.510, and (c) that the exercise of such powers, functions and duties by an agency created and established pursuant to this section would be more efficient and in the public interest than the exercise of such powers, functions and duties by the community or the housing commission of the community pursuant to KRS 99.490, an agency, to be known as the urban renewal and community development agency of the city or county, as the case may be, shall thereupon exist for such community with the powers, duties and functions provided for in KRS 99.330 to 99.510.

(2) *An urban renewal and community development agency created pursuant to subsection (1) of this section, may be dissolved at any time by the council which created it by a three-fifths (3/5) vote of the legislative body.*

(3) Upon adoption of *a* [~~the~~] resolution *creating an agency,* the mayor shall be promptly notified and he shall appoint, with the approval of a majority of the council, five (5) resident electors of the community as members of the agency.

(4)[~~(3)~~] Three (3) of the members who are first appointed shall be designated to serve for terms of one (1), two (2) and three (3) years respectively, and the remaining two (2) of such members shall be designated to serve for terms of four (4) years each, from the date of their appointment. Any appointments heretofore made for a term of five (5) years are hereby confirmed and declared to be appointments for a term of four (4) years from the date of such appointment. Thereafter members shall be appointed as aforesaid for a term of office of four (4) years, except that all vacancies occurring during a term shall be filled for the unexpired term. A member shall hold office until his successor has been appointed and qualified.

(5)[~~(4)~~] The agency shall elect a chairman from among its members. The term of office as chairman of the agency, unless otherwise prescribed by the council shall be for the calendar year, or for that portion thereof remaining after each such chairman is designated or elected.

(6)[~~(5)~~] The powers of each agency shall be vested in the members thereof then in office. Members of an agency or their staff shall receive their actual and necessary expenses, including traveling expenses, provided, however, that such other compensation, if prescribed, shall be paid exclusively from community funds.

(7)[~~(6)~~] For inefficiency or neglect of duty or misconduct in office, a member of an agency may be removed by the council but the member may be removed only after he shall have been given a copy of the charges at least ten (10) days prior to a public hearing thereon and has had an opportunity to be heard in person or by counsel.

(8)[~~(7)~~] No officer or employe of the community, or of the agency, who in the course of his duties is required to participate in the formulation of plans or policies for the redevelopment of a development area, or to approve such plans or policies, shall acquire any interest in any property included within a development area within the community. If any such officer or employe owns or has financial interest, direct or indirect, in any property included within such a development area he shall immediately disclose, in writing, such interest to the agency and to the council and such disclosure shall be entered in the minutes of the agency and of the council. Failure to so disclose such interest shall constitute misconduct in office. No payment shall be made to any member or officer of an agency for any property or interest therein acquired by the agency from such member or officer unless the amount of such payment is fixed by court order in eminent domain proceedings, or unless such payment is unanimously approved by the council.

(9)[~~(8)~~] When an agency is created for any community, the council may at that time, and from time to time thereafter, appropriate such amounts of money to the agency as it deems necessary for the administrative purposes of the agency. The administrative purposes of the agency may include staff and consultants for research, studies and surveys, designation of development areas, preparation of development plans, estimates of the cost of acquisition, clearance and conditioning of land for redevelopment, estimates of the fair use value of the land and any other administrative expenses considered necessary by the council.

(10)[~~(9)~~] Each such agency shall file with the council a detailed report of all its transactions, including a statement of all revenues and expenditures, at such intervals as the council may prescribe.

[~~(10) At any time after two (2) years after the appointment of the first five (5) members of the agency, if such agency shall not theretofore have redeveloped or acquired land for, or commenced the redevelopment of, a project, or entered into any contracts for redevelopment, the council may by resolution declare that the offices of the members of the agency shall be vacated and thereupon the capacity of the agency to transact business or exercise any power shall be suspended and shall remain suspended until the appointment of new members to the office of the agency as hereinbefore set forth in this section.~~]

HB 1017, AN ACT relating to urban-county government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.025 is amended to read as follows:

(1) In order to provide professional assistance in the administration of urban-county governments, a chief administrative officer may be employed to serve on the staff of the chief executive officer. The chief administrative officer shall possess demonstrable education and/or professional experience in the art and science of governmental management. The chief administrative officer may be a nonresident of Kentucky and/or the urban-county, but must become a resident of the urban-county within six (6) months of appointment and shall maintain such residence during the tenure of his or her office.

(2) The chief administrative officer shall be appointed by the chief executive officer subject to confirmation by a vote of three-fifths of the legislative body.

(3) The chief administrative officer of *any* [~~an~~] urban-county government *created after December 31, 1987,* may be removed[~~, with or without cause,~~] by[~~: (a) executive order of the chief executive officer; or (b)~~] three-fifths vote of the entire legislative body.

[~~(4) Upon removal, the chief administrative officer shall not be entitled to severance pay or notice of intention to remove him or her.~~]

The Committee Amendment No. 1 to **HB 1017** is as follows:

Amend printed copy of **HB 1017** on page 1, line 19, by deleting the word "*after*" and inserting in lieu thereof the word "*before*"; and

On page 1, lines 20 and 21, by removing the brackets and strikethroughs; and

On page 2, line 1, after the "." by continuing the paragraph beginning with the word "Upon" on line 2, and continuing with the rest of the language on line 2 and the language on lines 3 and 4 as amended herein; and

On page 2, line 2, by placing a closing bracket after the number "[~~(4)~~]" and removing the remaining strikethroughs on that line; and

On page 2, lines 3 and 4, by removing the brackets and strikethroughs; and

On page 2, after line 4, by inserting the following:

"(4) The chief administrative officer of any urban-county government created after December 31, 1987, may be removed by three-fifths vote of the entire legislative body."

The Committee on Education reported **HB 85**, **HB 225** with Committee Amendment attached thereto, **HB 365**, **HB 472**, **HB 473**, **HB 617**, **HB 655**, **HB 708** with Committee Substitute attached thereto, and **HB 764** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 85, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.288 is amended to read as follows:

Any of the *institutions of higher education* [~~state colleges or universities or the University of Kentucky~~] or the state on behalf of any of the *institutions* [~~colleges or the universities~~] may accept federal aid in the form of services, equipment, supplies, materials or funds by way of gift, grant or loan for the purpose of higher education including student loans. Any of the *institutions* [~~state colleges or the universities~~] acting through its president or its governing board is hereby authorized to receive such services, equipment, supplies, materials and funds as are [~~now~~] available [~~or may be made available~~]. The *institutions* [~~colleges and the universities~~] are [~~hereby~~] authorized to use funds appropriated to them [~~in the 1959-1960 fiscal year~~] in carrying out the matching provisions required by federal programs, loans or grants.

Section 2. KRS 164.410 is amended to read as follows:

(1) The governing board *of an institution of higher education* may purchase or lease land for the purpose of securing the erection of buildings, and may receive by any legal mode of conveyance, purchase and hold property of any description that the board deems necessary for the purposes of the school, and may build and construct improvements for such purposes and hold or sell the same. If a *governing* board [~~of regents~~] is unable to agree with the owner of *the* [~~such~~] real estate as to its value, or to its purchase, it may proceed in its own name to condemn *the* [~~such~~] real estate in the manner provided in the Eminent Domain Act of Kentucky. Real estate acquired by purchase or condemnation shall be paid for out of money appropriated to the institution.

(2) The governing board of each institution shall periodically review the assets of the institution and shall sell and convey those assets not necessary for implementing the institutional mission. Proceeds from the disposition shall be deposited in the unexpended plant fund account or in the fund for excellence authorized by KRS 164A.620.

(3) Any real property acquired under this section shall be in name of the Commonwealth for the use and benefit of the institution.

Section 3. KRS 164.420 is amended to read as follows:

The treasurer of each *governing* board [~~of regents~~] shall receive and disburse all money under the control of the board, perform all acts that pertain to his office under the direction of the board, and make *timely reports* [~~a report of the same~~] to the board *on a schedule established by the board* [~~at its quarterly meeting. In August each year the treasurer shall make and furnish to the board of regents, to be by it transmitted to the superintendent of public instruction, an abstract containing full accounts of all money received and disbursed by the school during the preceding year, stating from what source received and on what account paid out, and the amount paid to each professor, teacher or official of the school~~].

Section 4. KRS 164.460 is amended to read as follows:

The president of each *institution of higher education* [~~university or college~~] shall make to his *governing* board [~~of regents~~] written reports *which* [~~in duplicate during August each year. The reports~~] shall contain a full account of receipts of money from all sources, amount and purpose of disbursements thereof, and the condition of the university or college. *The reports shall be made according to a schedule established by the board.*

Section 5. KRS 164.830 is amended to read as follows:

(1) The board of trustees of the University of Louisville shall constitute a body corporate, with the usual corporate powers, and shall possess all the authorities, immunities, rights, privileges and franchises usually attaching to the governing bodies of Kentucky public higher educational institutions. Powers of the board shall include the following:

(a) Appointment of a president, all faculty members and other personnel and determination of the compensation, duties and official relations of each.

(b) Suspension or removal of the president, officers, faculty, agents or other personnel that it is authorized to appoint, except that no president, professor or teacher shall be removed except for incompetence, neglect of or refusal to perform his duty or for immoral conduct and that such removal shall be made in accordance with procedures established by law for state institutions.

(c) Election of a vice-chairman and such other officers as it deems wise, including the annual election of a five-member executive committee which shall have the powers that the board delegates to it and shall operate under such rules as the board shall establish under its authority to make such bylaws, rules and regulations consistent with this chapter.

(d) Receipt, retention and administration, on behalf of the university, subject to the conditions attached, all revenues accruing from endowments, appropriations, allotments, grants or bequests, and all types of property.

(e) Requirement of such reports from the president, officers, faculty and employes as it deems necessary and proper from time to time.

(f) Granting degrees to graduates of the university, prescription of conditions upon which postgraduate honors may be obtained, and conferment of honorary degrees.

(2) The provisions of KRS 164.030, 164.200, *and* [~~164.250, 164.280, 164.390,~~] 164.410, [~~and 164.460~~] shall be applicable to the University of Louisville except where inconsistent with the purposes of KRS 164.810 to 164.870.

Section 6. KRS 164A.550 is amended to read as follows:

As used in KRS 164A.555 to 164A.630 unless the context otherwise requires:

(1) "Governing board" means the board of trustees or board of regents constituting the corporate bodies established by KRS 164.160 and 164.310 for the purpose of governing universities and colleges.

(2) "Institutions" means all public supported institutions of higher education in Kentucky recognized in KRS 164.100, 164.290, [~~164.293~~] or 164.810(1)(a).

(3) "Affiliated corporation" means a corporate entity which is not a public agency and which is organized pursuant to the provisions of KRS Chapter 273 over which an institution exercises effective control, by means of appointments to its board of directors, and which could not exist or effectively operate in the absence of substantial assistance from an institution.

(4) "Depository bank" means any bank so designated by the treasurer of the Commonwealth as appropriate for receiving public moneys.

Section 7. The following KRS sections are repealed:

164.293 Northern Kentucky University recognized - Laws applicable.

164.355 Agriculture and mechanic arts departments at Kentucky State University - Federal fund.

HB 225, AN ACT relating to the Kentucky oral history commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.380 is amended to read as follows:

(1) There is established the Kentucky oral history commission, hereinafter referred to as "the commission," as a separate administrative body of state government within the meaning of KRS Chapter 12.

(2) The commission, through funds made available from the state treasury and from public or private foundations or other sources, shall coordinate, promote and assist in the development of oral history programs across the state*; and shall otherwise implement programs which result in the accumulation of taped interviews* [~~. The commission shall make a special effort to accumulate tape recordings, photographs,~~] and other supporting data *which preserve the multifaceted history of the Commonwealth* [~~for use in portraying Kentucky's history~~].

(3) The commission shall consist of twelve (12) members, *ten (10)* [~~five (5)~~] appointed by the governor *and the commissioner of the department for library and archives*, [~~five (5) appointed by the legislative research commission, and the state librarian~~] and the director of the Kentucky historical society who shall serve as ex officio members. Commission members shall serve without compensation, but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties.

(4) [~~Initial appointments shall be made so that three (3) members are appointed for a one (1) year term, three (3) members are appointed for a two (2) year term, two (2) members are appointed for a three (3) year term and two (2) members are appointed for a four (4) year term. The terms of the initial appointments shall be determined by lot. Thereafter,~~] *After initial appointments* commission members shall be appointed for a four (4) year term. Upon the expiration of terms or in case of vacancies, terms shall be filled by the *governor* [~~authority making the initial appointment~~].

(5) The commission shall, upon the appointment of its members, organize and elect officers from its membership. The commission shall choose, by a majority vote, a chairperson, and a vice-chairperson annually. *The commission shall meet upon call of the chairman or by a majority of the members of the commission, but no less than twice each year. A majority of the members of the commission shall constitute a quorum for the purpose of conducting the business of the commission.*

(6) The commission shall have [~~the~~] policy approval authority [~~for the commission~~] and shall have the authority to hire staff [~~for the commission~~], expend funds, *establish* [~~and operate the normal business of the commission. It shall be the final grant approval authority for all funds collected by or appropriated to the commission.~~

~~(7) The commission shall advise and make recommendations upon the projects to be undertaken,~~] funding and program priorities, *and operate the normal business activities of the commission. It shall be the final grant approval authority for all funds collected by or appropriated to* [~~grant applications, budget proposals, and such other matters as it deems necessary. The commission shall meet upon call of the chairman or by a majority of the members of the commission, but not less than twice each year. A majority of the members appointed shall constitute a quorum for the purpose of conducting the business of~~] the commission.

(7)[~~(8)~~] The commission may, upon such terms as may be mutually agreed upon, contract with *another* [~~the Kentucky historical society, or other~~] agency of state government, for:

(a) Office space;

(b) Secretarial support;

(c) Programmatic support;

(d) Telephone and other utilities;

(e) Bookkeeping support;

(f) Storage *or* [~~,~~] processing[~~, or duplication~~] of oral history tapes; and

(g) Other activities of a support nature not involving the actual management of the commission.

[~~(9) All personnel, property, and funds allocated to the commission as a unit within the Kentucky historical society are hereby transferred from the Kentucky historical society to the commission.~~]

The Committee Amendment No. 1 to **HB 225** is as follows:

Amend printed copy of **HB 225** on page 1, line 17, following the numeral "(12)" add "*voting*";

And on page 1, line 18, following the word "governor" add a ".";

And on page 1, line 19, before the word "*the*" delete "*and*";

And on page 1, line 20, move the bracket before the word "~~five~~" to include the comma after the word "*archives*" and strike through comma;

And on page 2, line 2, after the word"society" bracket and strike through "who";

And on page 2, line 24, before the word "*members*" insert *voting*".

HB 365, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

Whenever any student is removed from the regular classroom environment and placed into a special classroom such as special education classes or instruction for gifted and talented students, the student's parents or guardian shall be notified. The removal and the reason therefor shall be immediately transmitted by the principal to the student's parents or guardian.

HB 472, AN ACT relating to the Kentucky Higher Education Student Loan Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky higher education student loan corporation.

(2) The Kentucky higher education student loan corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of *seven (7)* [~~five (5)~~] members, *four (4)* [~~two (2)~~] of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the council on higher education, the secretary of the executive department for finance and administration and the chairman of the Kentucky higher education assistance authority.

(4) [~~Upon organization of the corporation,~~] The governor shall appoint the *four (4)* [~~two (2)~~] directors from the general public to take office and to exercise all powers thereof immediately. Of the *new* [~~two (2)~~] members of the corporation so appointed, *two (2)* [~~one (1)~~] shall continue in office for a term of four (4) years, and *two (2)* [~~one (1)~~] shall continue in office for a term of three (3) years. All succeeding terms shall be

for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary and treasurer. The executive director of the Kentucky higher education assistance authority shall serve as executive director of the corporation.

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary *may copy* [~~shall have authority to cause copies to be made of~~] all minutes and other records and documents of the corporation and [~~to~~] give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to *payment of any* [~~their~~] reasonable and necessary *expense* [~~expenses~~] actually incurred in discharging their duties under this chapter.

(12) The Kentucky higher education assistance authority,[~~(~~] the "guarantee agency",[~~)~~] shall provide technical, clerical and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

HB 473, AN ACT relating to the higher education student loan corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.020 is amended to read as follows:

The following words and terms, unless the context clearly indicates a different meaning, shall have the following respective meanings:

(1) "Board" means the board of directors of the corporation.

(2) "Bonds" or "notes" means the bonds or bond anticipation notes authorized to be issued by the corporation pursuant to this chapter.

(3) "Corporation" means the Kentucky higher education student loan corporation, an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky created to perform essential governmental services.

(4) "Eligible institution" means any educational institution described as an eligible institution in the *federal act* [~~higher education act of 1965, as amended,~~] which has, if required by the guarantee agency, a contract in force with the guarantee agency pursuant to the *federal act* [~~higher education act of 1965, as amended,~~] and this chapter.

(5) "Eligible lender" means the Kentucky higher education assistance authority, a de jure political subdivision of the Commonwealth of Kentucky and the corporation and all other entities described as eligible lenders in the *federal act* [~~higher education act of 1965, as amended,~~] which have in force a contract with the guarantee agency providing for loan guarantees to be issued by the guarantee agency to the subject *lender* [~~entity~~] under the *federal act* [~~higher education act of 1965, as amended,~~] and this chapter.

(6) *"Federal act" means the Higher Education Act of 1965, as amended, codified as Title 20, United States Code, Sections 1071 et seq.*

(7) "Guarantee agency" means the Kentucky higher education assistance authority duly organized and existing pursuant to the statutory laws of the Commonwealth of Kentucky *or any agency authorized as a guarantor pursuant to the federal act.*

(8)[~~(7)~~] "Qualified student" means a student [~~(a)~~] who qualifies for an insured student loan *under the federal act*[~~, and (b) who is a resident of the Commonwealth of Kentucky or who has been accepted for enrollment at or is attending an eligible institution within the Commonwealth of Kentucky~~].

(9)[~~(8)~~] "Insured student loan" means an obligation representing advances of money to a qualified student evidenced by one or more promissory notes the payment of principal of and interest on which is insured by the guarantee agency and reinsured to the extent of not less than eighty percent (80%) of the principal amount thereof by the *secretary* [~~commissioner~~] of education of the United States under the *federal act* [~~higher education act of 1965, as amended~~], or fully insured as to principal amount by the United States *secretary* [~~commissioner~~] of education under the *federal act* [~~higher education act of 1965, as amended~~]. As used in connection with the purchase, making or acquisition of insured student loans by the corporation, the term insured student loan shall further mean and refer to any contingent interest, security interest, pledge, commitment, chose in action or other property interest in any such loan.

HB 617, AN ACT relating to hospitality education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

Hospitality education shall be recognized as a discipline in academic and vocational education.

HB 655, AN ACT relating to school facilities surveys and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.620 is amended to read as follows:

(1) In order to participate in the school construction funding program, the district must have unmet needs as defined by KRS 157.615 and must meet the following eligibility criteria:

(a) Levy a minimum equivalent tax rate of twenty-five (25) cents as defined by KRS 157.615;

(b) All new revenue generated by any tax increase required to meet the minimum equivalent tax rate must be placed in a restricted account for school building construction bonding; and

(c) On July 29, 1985 and on June 30 of each year thereafter, the district board of education shall transfer all available local revenue, as defined by KRS 157.615, to a restricted account for school building construction, to be utilized in accordance with the priorities determined by the approved school facilities plan.

(2) Interest earned on funds deposited in the restricted accounts required by this section shall be deposited in the restricted account and shall become a part of the restricted funds.

(3) Funds restricted by the requirements of this section may be used by the district for projects or a portion thereof as listed in priority order on the approved school facilities plan prior to receiving state funds. Any local school district which is not an eligible district may be permitted, upon written application to the department of education, to transfer funds restricted by this Act for other school purposes.

(4) Not later than October 15 of the year immediately preceding the regular session of the general assembly the state board of education shall submit a statement to the school facilities construction commission certifying the following in each district:

(a) The amount of school facility construction needs in each district;

(b) The amount of available local revenue in each district; and

(c) That the district has or has not met the eligibility criteria established by subsection (1) of this section.

(5) Construction needs shall be those needs specified in the school facilities plan approved by the state board of education as of June 30 of the year preceding the biennium in which funding is approved. All school facilities plans not approved by the state board of education since January 1, 1981 shall be revised by December 31, 1985. The state board of education shall conduct public hearings on all amendments to approved plans.

(6) If a local board of education determines that for any reason the district's approved facility plan is grossly inconsistent with the administrative regulations governing the development of such a plan, the local board may certify, by official action, the reason for such inconsistency and may request that the department of education resurvey the building needs of the district. After review of the data, the superintendent of public instruction may require a resurvey and the approval of a new facility plan at any time on or before April 15, 1988, and on or before January 15 of any subsequent year. If the superintendent of public instruction elects to recommend the new facility plan to the state board of education, the board shall notify the school facilities construction commission of any change required in the statement of need for the district.

Section 2. Whereas, it is crucial that any necessary adjustments to facility plans be made prior to the deadline for offers of assistance to the districts by the school facilities construction commission, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 708, AN ACT relating to the financing of school buildings and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 162.310 is amended to read as follows:

(1) Any board of education may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290 utilizing a nonprofit finance corporation established pursuant to the provisions of KRS 273.161 to 273.390, inclusive, and KRS 58.180 as an issuing agency for the bonds instead of a city or county. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(a) "City" means a finance corporation acting as an agency and instrumentality of the board pursuant to KRS 58.180;

(b) "City clerk" means the secretary of the finance corporation;

(c) "Governing body of the city" means the board of directors of the finance corporation or other governing body thereof;

(d) "Mayor" means president or chief executive officer of the finance corporation; and

(e) "Ordinance" means an ordinance, resolution or trust indenture or a similar document.

(2) In order to promote uniformity in the financing of school facilities each finance corporation shall include the identity of the school district for which it acts in its title and shall be designated as ". . . . . school district finance corporation."

(3) Bonds issued by a finance corporation on behalf of a board of education shall constitute "bonds" within the meaning of KRS 157.615(3) and the school facilities construction commission shall be authorized to assist qualified boards in meeting rental payments due under a lease from the finance corporation to the board which shall constitute a "lease" within the meaning of KRS 157.615(6) [~~For the purpose of providing buildings to be used in connection with any state educational institution, the governing body of the institution may convey to any person complying with KRS 162.320 and 162.330 a fee simple title, with covenant of general warranty of title, to real estate held by or for the institution, as a site for the buildings~~].

Section 2. Whereas the General Assembly finds that boards of education of the Commonwealth may immediately benefit by the implementation of the provisions of this Act as soon as possible, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee Substitute to **HB 708** is as follows:

HB 708, AN ACT relating to the financing of school buildings and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 162 IS CREATED TO READ AS FOLLOWS:

(1) Any board of education may obtain buildings for school purposes by proceeding under the provisions of KRS 162.120 to 162.290 utilizing a nonprofit finance corporation established pursuant to the provisions of KRS 273.161 to 273.390, inclusive, and KRS 58.180 as an issuing agency for the bonds instead of a city or county. When applied to such boards of education, KRS 162.120 to 162.290 shall be so read that the term:

(a) "City" means a finance corporation acting as an agency and instrumentality of the board pursuant to KRS 58.180;

(b) "City clerk" means the secretary of the finance corporation;

(c) "Governing body of the city" means the board of directors of the finance corporation or other governing body thereof;

(d) "Mayor" means president or chief executive officer of the finance corporation; and

(e) "Ordinance" means an ordinance, resolution or trust indenture or a similar document.

(2) In order to promote uniformity in the financing of school facilities each finance corporation shall include the identity of the school district for which it acts in its title and shall be designated as ". . . . . school district finance corporation."

(3) Bonds issued by a finance corporation on behalf of a board of education shall constitute "bonds" within the meaning of KRS 157.615(3) and the school facilities construction commission shall be authorized to assist qualified boards in meeting rental payments due under a lease from the finance corporation to the board which shall constitute a "lease" within the meaning of KRS 157.615(6).

Section 2. Whereas the General Assembly finds that boards of education of the Commonwealth may immediately benefit by the implementation of the provisions of this Act as soon as possible, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

HB 764, AN ACT relating to teacher retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 through 161.716, and 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 through 161.716, and 161.990 for payment of allowances to teachers;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Teacher" means any member of a local retirement system who became a member of the state teachers' retirement system according to the provisions of Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 49, and any regular or special teacher, or professional employe occupying a position requiring certification by the state department of education or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community or junior colleges established under the control of any of the above;

(c) State and area vocational schools, Kentucky school for the blind, and Kentucky school for the deaf;

(d) The state department of education, other public education agencies as created by the general assembly, and such members of the administrative staff of the teachers' retirement system of the state of Kentucky as the board of trustees may designate by regulation;

(e) Regional cooperative organizations formed by local boards of education and/or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations; and

(f) All full-time members of the staffs of the Kentucky association of school administrators, Kentucky education association, Kentucky vocational association, Kentucky high school athletic association and the Kentucky school boards association who were members of the Kentucky teachers' retirement system or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petition to be included. The board of trustees of the Kentucky teachers' retirement system may designate by resolution whether part-time employes of the petitioning association are to be included. The state shall make no contributions on account of such employes, either full-time or part-time. The association shall make the employer's contributions including any overmatch that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to such persons in the employ of the associations on or subsequent to July 1, 1972;

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by Acts 1938 (1st Ex. Sess.), ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of such system until he, with the membership of the local retirement system, became a member of the state teachers' retirement system or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any teacher not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the teachers' retirement system after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution or agency has picked up employe contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked up employe contributions; however, if any of the five (5) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution or agency, or for employes of school districts, the highest percentage increase received by members on any one rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

Such limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and such increase was accompanied by a corresponding change in position or in length of employment;

(10) "Annual compensation" means the *total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year, including any deductions, or any amount agreed upon by the member and the employer as an alternate form of renumeration to the member* [~~contractual salary and additions thereto received by a member as compensation for services as a teacher in the public schools of Kentucky during a fiscal year before any deductions or reductions~~];

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund for retirement annuity, including picked up employe contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care and like costs;

(20) "Active contributing member" means a member currently making contributions to the teachers' retirement system or who made such contributions in the next preceding fiscal year, or for whom picked up employe contributions are currently being made or for whom such contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employe holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 2. KRS 161.340 is amended to read as follows:

(1) The board of trustees shall elect from its membership a chairperson and a vice chairperson on an annual basis as prescribed by the rules and regulations of the board of trustees. It shall appoint an executive secretary and fix the compensation for this position without limitation of the provisions of KRS Chapter 18A and KRS 64.640. The executive secretary shall be the chief administrative officer of the board. The compensation set by the board of trustees for the position of executive secretary may provide for the same annual leave, sick leave, insurance and similar benefits as provided for other employes of the retirement system. The executive secretary, at the time of appointment or selection, shall be a graduate of a standard four (4) year college, and shall possess such other qualifications as the board of trustees may require by regulation. The executive secretary shall not have held by appointment or election an elective public office within the five (5) year period next preceding the date of appointment or selection.

(2) The board shall employ such clerical, administrative, and other personnel as are required to transact the business of the retirement system. The compensation of all such persons employed by the board shall be paid at such rates and in such amounts as the board approves. Anything in the Kentucky Revised Statutes to the contrary notwithstanding, the power over and the control of determining and maintaining an adequate complement of employes in the system shall be under the exclusive jurisdiction of the board of trustees.

(3) The board shall contract for such actuarial, auditing, medical, investment counseling, and other professional or technical services as are required to carry out the obligations of the board without limitations of KRS Chapters 56 and 45A, and shall provide for legal counsel and such other legal services as may be required in defense of trustees, officers and employes of the system who may be subjected to civil action arising from the performance of their legally assigned duties in the event such counsel and services are not provided by the attorney general.

(4) The board shall require the trustees, executive secretary and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62.

(5) The board of trustees may expend funds from the expense fund as necessary to insure the trustees, employes and officials of the teachers' retirement system against any liability arising out of an act or omission committed in the scope and course of performing legal duties.

Section 3. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. *It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment or appeal.* All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited

by a failure of a teacher or his estate to claim the same shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, including any sums appropriated for meeting unfunded liabilities, excluding money assigned to the expense fund, together with regular interest assigned by the board of trustees from the guarantee fund. At time of retirement of a member by reason of service or disability there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances;

(5) The survivor, death and medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.520, 161.525, 161.655 and 161.675. One and eighty-one hundredths percent (1.81%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from state appropriation. In addition whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, the state accumulation fund, and the allowance reserve fund such amounts as may be held in those funds for the account or benefit of the member. All claims for benefits under KRS 161.520, 161.525, 161.655 and 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to such funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at the beginning of a fiscal year, transfer from the guarantee fund to the survivor, death and medical insurance fund an amount not to exceed two percent (2%) of the income earned from investments during the immediate past year.

Section 4. KRS 161.430 is amended to read as follows:

(1) The board of trustees shall be the trustee of the funds of the retirement system and shall have full power and responsibility for the purchase, sale, exchange, transfer or other disposition of the investments and moneys of the retirement system. The board may invest in securities which, at the time of making the investment, are, by law, permitted for the investment of funds by fiduciaries in this state, except that the board may at its discretion purchase common stocks in corporations that do not have a record of paying dividends to their stockholders. The board shall employ an experienced competent investment counselor to advise it on all matters pertaining to investment *except the board may employ qualified investment personnel to advise it on investment matters not to exceed twenty-five percent (25%) of the book value of the system's assets.* The board may appoint an investment committee consisting of the executive secretary and two (2) trustees to act for the board in all matters of investment subject to the approval of the board of trustees. The board of trustees in keeping with their responsibilities as trustees and wherever consistent with their fiduciary responsibilities shall give priority to the investment of funds in obligations calculated to improve the industrial development and enhance the economic welfare of the Commonwealth.

(2) The board members and investment counselor shall discharge their duties with respect to the assets of the system solely in the interests of the active contributing members and annuitants and:

(a) For the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system;

(b) With the care, skill, prudence, and diligence under the circumstances then prevailing that a prudent man acting in a like capacity and familiar with such matters would use in the conduct of an enterprise of a like character and with like aims;

(c) In accordance with the laws, regulations and other instruments governing the system.

(3) (a) In choosing and contracting for professional investment management services the board must do so prudently and in the interest of the members and annuitants. Any contract that the board makes with an investment counselor shall set forth policies and guidelines of the board with reference to standard rating services and specific criteria for determining the quality of investments.

(b) An investment counselor appointed under this section shall acknowledge in writing his fiduciary responsibilities to the fund. To be eligible for appointment, an investment counselor must be:

1. Registered under the Federal Investment Advisors Act of 1940; or

2. A bank as defined by that Act; or

3. An insurance company qualified to perform investment services under the laws of more than one (1) state.

(4) Not more than twenty-five percent (25%) of any one (1) issue may be purchased as an investment and not more than seven percent (7%) of the invested funds of the system may be invested in the securities of any issuer except in the case of obligations of the United States government. No investment may be made in the obligation of any issuer which has been in default of any of its bonds or interest during a period of the last ten (10) years immediately preceding the purchase.

(5) (a) There shall be no limit on investments in bonds, notes, real estate mortgages, and other obligations of or guaranteed by the United States government, or those for which the credit of the United States government is pledged for the payment of the principal and interest thereof, and any bonds, notes, debentures, or any other obligations or securities issued or generated by any federal government agency, presently or in the future establishment by an Act of Congress, and as amended or supplemented from time to time;

(b) Except as provided in subsection (a) of this section, no more than seventy-five percent (75%) of the assets of the system may be invested in obligations consisting of bonds, notes, debentures, equipment trust certificates, conditional sales agreements, or other fixed obligations in any form. Purchase of any of the above shall be limited to those which are the direct obligation or are secured by direct obligation, of a corporation organized under the laws of the United States, or any state in the United States, or District of Columbia or are secured by first mortgages in the case of equipment trust certificates and conditional sales agreements. Such bonds or other obligations must be rated at the time of purchase within the three (3) highest classifications established by one (1) or more major rating services, or if not rated, must be certified in writing by one (1) or more such services to be of investment quality equivalent to, or higher than, the quality of bonds rated in the third highest investment classification;

(c) No more than forty percent (40%) of the assets of the system may be invested in common or preferred stocks, issued or guaranteed by a corporation created or existing under the laws of the United States or any state thereof. No more than ten percent (10%) of the assets of the system may be invested in a stock index portfolio that is designed to replicate the movement of the Standard and Poor's composite index of five hundred (500) stocks;

(d) No more than ten percent (10%) of the assets of the system may be invested in real estate, real estate lease agreements, conventional first mortgages on real estate, or shares of beneficial interest in real estate investment trusts established under the laws of the United States or any state thereof;

(e) No more than ten percent (10%) of the assets of the system may be invested in any one (1) category of additional types of investment that are established by regulations by the board of trustees.

(6) No investment or disbursement of funds shall be made unless authorized by the board of trustees.

Section 5. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new teachers, all present teachers and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938

(1st Ex. Sess.), ch. 1, paragraph 29. The board of trustees of the teachers' retirement system shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership. No person without previous Kentucky service who was age sixty-five (65) or older on July 1, next preceding employment may become a member of the teachers' retirement system.

(2) Service credit shall be forfeited upon withdrawal. If a teacher again enters service it shall be as a new teacher, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and re-establish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, *1988* [~~1974~~], and thereafter, an active contributing member of the retirement system with contributing service equal to *one (1) year* [~~two (2) years or the number of years subsequent to the withdrawal of contributions, whichever is the lesser number,~~] may regain such service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions; or

(d) When a teacher, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years.

Upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of such funds at any time. Such terminated service shall be reinstated, if not withdrawn by the member, in the event that the teacher returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the teacher return all of his accumulated contributions with regular interest including any payments made by the teacher to the state accumulation fund, but the teacher shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the survivor, death and medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600 no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for social security benefits *or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan.* Requests for refund of contributions by the member must be filed on forms prescribed by the teachers' retirement system and the employer *shall be financially responsible for all information that is certified on the prescribed form* [~~must certify that the employment of the member has terminated as of the date of the application for refund of contributions~~].

(7) Except as provided in KRS 161.520 and 161.525 in case of death prior to retirement the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the teacher to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the teacher or to contributions made to the survivor, death and medical insurance fund.

(8) Any active contributing member of the Kentucky employes retirement system, the county employes retirement system, the state police retirement system, or the judicial retirement system may use service, under such retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

Section 6. KRS 161.480 is amended to read as follows:

(1) Each person, upon becoming a member of the retirement system shall file a detailed statement as required by the board of trustees and shall designate a beneficiary to receive any benefits accruing from the death of the member. This designation shall remain in full force and effect until changed by the member on forms prescribed by the Kentucky teachers' retirement system except that subsequent marriage or divorce by the member shall void the designation and the spouse of the member at death shall be considered as beneficiary in the event of subsequent marriage, and the estate of the member shall be considered as beneficiary in the event of subsequent divorce, unless the member subsequent to marriage or divorce designates another beneficiary. The provisions of this section shall be retroactive as they relate to election of beneficiaries by members still in active status on the effective date of this section.

(2) Each retiree shall, prior to the effective date of retirement, designate a beneficiary who shall be eligible to receive such survivors benefits as may be provided by the retirement option selected by the retiree. A beneficiary designation may not be changed after the effective date of retirement *except that a divorce, annulment, marriage dissolution, or death of a spouse or the death of any other designated beneficiary following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement to provide continuing lifetime benefits to such beneficiary and the retiree may designate a beneficiary to receive any refundable balance at the retiree's death* [~~under either of the joint and last survivor options provided by the system~~].

Section 7. KRS 161.500 is amended to read as follows:

(1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total days of employment were not less than five (5) days from the number of days, *but no fewer than one hundred eighty-five (185) days in a local school district,* contained in their employment agreement for a regular school or fiscal year. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.

(2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.

Section 8. KRS 161.515 is amended to read as follows:

(1) For the purposes of this section, "out-of-state service" shall mean service in any state in a comparable position, which would be covered if in Kentucky.

(2) (a) A member in active contributing status who has been a contributing member of the retirement system for at least one (1) full scholastic year, subsequent to the latest out-of-state service, may present for credit, service rendered out of state, not to exceed ten (10) such years actually taught as a certified or licensed teacher. With the exception of university faculty members, all members who elect to purchase such service shall pay to the retirement system an amount equal to the current member contribution rate based on the first Kentucky salary of the member subsequent to the out of state service provided such service was rendered after January 1, 1984. In the event such service was rendered prior to January 1, 1984, the contribution rate shall be seven and eighty-four hundredths percent (7.84%). University faculty members shall pay on a contribution rate of seven and eighty-four hundredths percent (7.84%) based on the first Kentucky salary subsequent to the out-of-state service regardless of when the service was rendered. In addition, all members shall pay interest on the contributions for such service at a rate to be set by the board of trustees on each annual contribution from the last day of the scholastic year in which the service was rendered to date of payment to the retirement system. Such payments shall not be picked up as described in KRS 161.540(2). For each year of which the retirement system shall accept the contribution and interest, one (1) year of service credit shall be given. Such credit may not be used to meet the service requirements of KRS 161.525, 161.600 or 161.661 except as provided in subsection (2)(c) of this section. No credit shall be granted for service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds;

(b) A member of the retirement system having teaching service in the elementary or secondary schools operated by the United States overseas or in this country, or in a public college or university in Kentucky, not included in the teachers' retirement system of the state of Kentucky may present such service for credit in the retirement system on the same basis as provided above for out-of-state service credit, however, no such service may be presented which shall be used as a basis for retirement benefits in any program supported wholly or in part by such public institution or governmental agency. Such service when added to service credited under subsection (2)(a) of this section shall not exceed a total of ten (10) years service credit; and

(c) A member having service referred to in subsection (2)(a) or (2)(b) of this section may elect to use such service for meeting the requirements of KRS 161.600(1)*(c)*[~~(b)~~] by making an additional contribution to the state accumulation fund equal to a member contribution rate of seven and eighty-four hundredths percent (7.84%) for each year so used. Such payments shall not be picked up as described in KRS 161.540(2). The salary base to be used in determining this additional contribution shall be the final average salary which is used in calculating the member's regular retirement annuity.

(3) Members entering the teachers' retirement system for the first time, July 1, 1976, and thereafter, shall not receive credit for service defined in subsections (2)(a) and (2)(c) of this section in excess of one (1) year of credit for each two (2) years of Kentucky service in a covered position or ten (10) years, whichever is the lesser number.

Section 9. KRS 161.520 is amended to read as follows:

Upon death of an active contributing member or upon the death of a member retired for disability, except as provided in KRS 161.661(6), the survivors of the deceased member in the following named order, may elect to receive a survivor's benefit payable as follows:

(1) Where there is a surviving widow or widower who is named as beneficiary of the member's retirement account, the benefit shall be:

(a) One hundred eighty dollars ($180) per month with no restriction on other income;

(b) Two hundred twenty dollars ($220) per month when the surviving widow or widower's total income from all sources does not exceed six thousand dollars ($6,000) per year or five hundred dollars ($500) per month; or

(c) If the deceased member has a minimum of ten (10) years of service credit with the teachers' retirement system, the surviving widow or widower may apply for an annuity actuarially equivalent to the annuity that would have been paid to the deceased member when eligibility conditions were met. Eligibility for payments would begin at the time the age of the deceased member would have met the requirements of KRS 161.600(1). In exercising this right, the surviving widow or widower shall be entitled to receive an annuity for life except that eligibility for this benefit shall cease upon remarriage. This subsection applies to surviving spouses of members who die on or after July 1, 1978. A surviving widow or widower shall be eligible for benefit payments provided under paragraphs (a) and (b) of this subsection until they begin receiving payments under this provision.

(2) Where there are surviving unmarried children under age eighteen (18) or under age nineteen (19) if a full-time student in high school, the benefit shall be one hundred eighty dollars ($180) per month in the case of one (1) such child, three hundred ten dollars ($310) per month in the case of two (2) such children, three hundred sixty dollars ($360) per month in the case of three (3) such children, and four hundred dollars ($400) per month in the case of four (4) or more such children. Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (3) of this section.

(3) Where the survivor is a child age eighteen (18) or older whose mental or physical condition is sufficient to cause his dependency on the deceased member at the time of the member's death, the benefit shall be two hundred dollars ($200) per month, payable for the life of such child or until such time as the mental or physical condition creating the dependency no longer exists *or the child marries.* Benefits under this subsection and subsection (2) of this section shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one year prior to the death of the member. *The mental or physical condition of the adult child shall be revealed by a competent examination by a licensed physician and shall be approved by a majority of a medical review committee as defined in KRS 161.661(12).* Benefits under this subsection shall apply notwithstanding benefits which may be payable under subsections (1) and (2) of this section and shall be in addition to such benefits.

(4) Where the sole eligible survivors are dependent parents aged sixty-five (65) or over, the benefit shall be two hundred dollars ($200) per month for one (1) parent or two hundred ninety dollars ($290) per month for two (2) parents. Dependency of a parent shall be established as of the date of the death of the member.

(5) Where the sole eligible survivor is a dependent brother or sister, the benefit shall be one hundred sixty five dollars ($165) per month. In order to qualify the brother or sister must have been a resident of the deceased member's household for at least one (1) full year prior to the member's death or must have been receiving care in a hospital, nursing home or other institution at the member's expense for a like period.

(6) The benefit to a child as defined in subsection (2) of this section shall terminate upon the attainment of age eighteen (18) or upon reaching age nineteen (19) if a full-time student in high school or upon marriage, except that benefits shall continue until the attainment of age twenty-three (23) for an unmarried child who is a full-time student in a recognized educational program beyond the high school level. The benefit to a widow, widower, dependent parent or dependent brother or sister or dependent child age eighteen (18) or older shall terminate upon marriage, or upon termination of the condition creating the dependency.

(7) The board of trustees shall be the sole judge of eligibility or dependency of any beneficiary, and may require formal application or information relating thereto, including proof of annual income satisfactory to the board. The board of trustees may subpoena records and individuals whenever it deems such action necessary.

(8) No payments of benefits shall be made unless the board of trustees shall have authorized such payments. The board shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions and in every case the decision of the board of trustees shall be final as to eligibility, dependency, or disability, and the amounts of benefit payable.

(9) In the event that there are no eligible survivors as defined in subsections (1), (2), (3), (4), and (5) of this section, the board of trustees shall pay to the estate or assigns of the deceased member a refund of his accumulated contributions as provided in KRS 161.470(7). If the benefits paid or payable under subsections (1), (2), (3), (4), and (5) of this section and KRS 161.661 shall amount to a sum less than the member's accumulated contributions at the time of death, the board of trustees shall pay to the estate or assigns of the deceased member the balance of such accumulated contributions.

Section 10. KRS 161.540 is amended to read as follows:

(1) Effective July 1, 1984, each member shall contribute to the retirement system nine and six-tenths percent (9.6%) of annual compensation except that university faculty members shall contribute eight and twelve-hundredths percent (8.12%) of annual compensation. The contribution of members shall not exceed these applicable percentages on annual compensation. When a member retires, if it is determined that he has made contributions on a salary in excess of the amount to be included for the purpose of calculating his final average salary, any excess contribution shall be refunded to him in a lump sum at the time of the payment of his first retirement allowance. *In the event a member is awarded a court ordered back payment the employer shall deduct and remit the member contribution on the payment, plus interest, to the retirement system unless otherwise specified by the court order.*

(2) Each public board, institution or agency, as listed in KRS 161.220(4)(a) through (f) shall, solely for the purpose of compliance with Section 414(h) of the United States Internal Revenue Code, pick up the employe contributions required by this section for all compensation earned after August 1, 1982, and the contributions so picked up shall be treated as employer contributions in determining tax treatment under the United States Internal Revenue Code and KRS 141.010(9). However, each public board, institution or agency shall continue to withhold federal and state income taxes based upon these contributions and hold them in a separate account until the Internal Revenue Service or the federal courts rule that, pursuant to Section 414(h) of the United States Internal Revenue Code, these contributions shall not be included as gross income of the employe until such time as the contributions are distributed or made available to the employe. The picked up employe contribution shall satisfy all obligations to the retirement system satisfied prior to August 1, 1982 by the employe contribution, and the picked up employe contribution shall be in lieu of an employe contribution. Each employer shall pay these picked up employe contributions from the same source of funds which is used to pay earnings to the employe. The employe shall have no option to receive the contributed amounts directly instead of having them paid by the employer to the system. Employe contributions picked up after August 1, 1982 shall be treated for all purposes of KRS 161.220 to 161.714 in the same manner and to the same extent as employe contributions made prior to August 1, 1982.

Section 11. KRS 161.545 is amended to read as follows:

(1) Members may make contributions and receive service credit for substitute, part-time or any service other than regular full-time teaching as provided in the rules and regulations of the board of trustees. Members placed on leave of absence may make contributions and receive service credit for such leave as provided in rules and regulations adopted by the board of trustees. Contributions permitted after August 1, 1982 shall not be picked up pursuant to KRS 161.540(2).

(2) Active members who have been granted leaves of absence since July 1941, for reasons of health or to improve their educational qualifications, and did not make contributions to the teachers' retirement system may make contributions prior to July 1, 1989 under the following conditions:

(a) Such leave shall be verified by a copy of the board of education minutes which granted the leave of absence;

(b) The member shall contribute the required percentage based on the salary received for the year immediately preceding the leave of absence with interest at the rate of eight percent (8%) compounded annually from the beginning of the school year next following the year of leave, and by depositing in the state accumulation fund an amount equal to the above sum; and

(c) The member may receive credit for no more than two (2) years under the provisions of this subsection.

Section 12. KRS 161.550 is amended to read as follows:

[~~(1) Beginning with July 1, 1976, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall, in addition to the above amount, provide an annual overmatch of three and one-fourth percent (3.25%) of total member salaries to discharge the system's unfunded obligations with interest assumed by the state. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.230 to 161.716. In the event an annual appropriation is in excess of these requirements, such excess funds shall, in the 1982-84 biennium, be retained by the system to be applied to any unfunded remaining costs as described in subsection (5) of KRS 161.155. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the state's obligation to match the July 1, 1984 increase in the member rate of contribution during the 1984-86 biennium. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system.~~

~~(2)~~] Beginning with July 1, 1988, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all employes of local school districts who are members of the retirement system. The state shall, in addition to the above amount, provide an annual *contribution* [~~overmatch~~] of three and one-fourth percent (3.25%) of total salaries of the employes of local school districts who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts, shall contribute annually to the retirement system a permanent amount equal to that contributed by its employes who are members of the retirement system plus an additional three and one-fourth percent (3.25%) of the total of salaries of its employes who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts, shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.230 to 161.716. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. State contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and such contributions shall be considered deferred compensation to the members.

Section 13. KRS 161.560 is amended to read as follows:

Each agency employing members of the retirement system shall deduct from the compensation of each member for each payroll period subsequent to the date upon which the teacher became a member such percentage of his earnable compensation as is due under the rates prescribed in KRS 161.540. No later than fifteen (15) days following the end of each payroll period the agency shall forward all amounts so deducted to the teachers' retirement system. The retirement system shall charge the employing agency interest at an annual rate not to exceed twelve percent (12%) for deductions not remitted within the specified fifteen (15) days. Such payroll reports, contributions lists, and other data as may be required by regulation of the board of trustees shall be submitted. *Employers shall submit an annual report, in compliance with requirements of the retirement system, of teacher contributions and periods employed to the retirement system no later than August 1 following the completion of each fiscal year. The retirement system may impose a penalty on the employer not to exceed one thousand dollars ($1,000) when the employer does not meet the August 1 reporting date.* The deductions shall be made notwithstanding the fact that the salary as a result may be less than the minimum compensation provided by law. Every member shall be deemed to consent and agree to the deductions and the deductions shall be considered as having been paid to the member. After August 1, 1982, employe contributions shall be picked up by the agency pursuant to KRS 161.540(2).

Section 14. KRS 161.600 is amended to read as follows:

(1) Effective July 1, *1988* [~~1978~~], a member of the retirement system may qualify for service retirement by meeting *one (1)* [~~either~~] of the following requirements:

(a) Attainment of age *sixty (60)* [~~fifty-five (55)~~] years and completion of five (5) years of Kentucky service[~~, two (2) years of which are subsequent to July 1, 1941~~];

(b) *Attainment of age fifty-five (55) years and completion of a minimum of five (5) years of Kentucky service with an actuarial reduction of the basic allowance of five percent (5%) for each year the member's age is less than sixty (60) years or for each year the member's years of Kentucky service credit is less than thirty (30), whichever is the lesser number; or* [~~Completion of thirty (30) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:~~

~~29 years - 92% of benefits~~

~~28 years - 84% of benefits~~

~~27 years - 76% of benefits; and~~]

(c) *At any age with completion of a minimum of thirty (30) years of Kentucky service. A member having less than thirty (30) years of Kentucky service may retire at any age with an actuarial reduction of eight percent (8%) for each year the member's years of service is less than thirty (30) but not more than twenty-seven (27) years of service* [~~Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under paragraph (a) of this subsection who are less than age sixty (60) years~~].

(2) [~~Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.~~

~~(3)~~] Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(3)[~~(4)~~] Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsection (1)(a) and (b) of this section, provided such service is subsequent to July 1, 1956.

(4)[~~(5)~~] No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(5)[~~(6)~~] The surviving spouse of an active contributing member, if named as beneficiary of the member's

account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 15. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1980, and thereafter, the annual allowance for each year of service performed prior to July 1, 1941, shall be one hundred dollars ($100) and the annual allowance for each year of service performed after July 1, 1941, shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section;

(b) For retirements effective January 1, 1984, and thereafter, the annual allowance shall be determined as set out in subsection (1)(a) of this section, except that the allowance for service performed after January 1, 1984, shall be valued at the annual rate of two and one-half percent (2 1/2%) of the final average salary for all members not employed by a state university or college. For purposes of implementing the change in the value of a year of service, the board of trustees shall establish by regulation, the value of services performed during the 1983-84 fiscal year but in no case shall the value of service performed during the 1983-84 fiscal year exceed two and one quarter percent (2.25%); and

(c) *The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount* [~~If the member has five (5) years or more of Kentucky service, but less than thirty (30) years of such service credit, the allowance shall be reduced actuarially for the number of years the member is less than sixty (60) years of age or by the number of years the service credit is less than thirty (30) years, whichever is the lesser number. The board of trustees shall adopt an actuarial table of discounts for the purpose of calculating these allowances~~].

(2) Effective July 1, 1980, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one percent (1%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than one hundred forty dollars ($140) effective July 1, 1986 and one hundred eighty dollars ($180) effective July 1, 1987, multiplied by the service credit years of the teacher, except that no retired teacher who was sixty (60) years of age or older at retirement, and who has five (5) years or more service credit in a position covered by the teachers' retirement system shall receive a monthly benefit of less than seventy-five dollars ($75). The above minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection. Eligibility for the benefits provided under this subsection shall be determined after applying any other cost-of-living adjustments provided by statute to the June, 1986 and June, 1987 annuity payment of the member.

(4) The minimum provided in this section shall apply in the case of teachers retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the teacher and his beneficiary or beneficiaries as provided in the duly adopted option tables at the time of the member's retirement.

(5) Effective July 1, 1986, the monthly allowance of each member retired on or before July 1, 1985, and each recipient of a retirement option of such retired members shall be increased in the amount of one percent (1%) of the monthly allowance for each year the member has been retired up to a maximum of five (5) years. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(6) Effective July 1, 1987, the monthly allowance of each member retired on or before July 1, 1986, and each recipient of a retirement option of such retired member shall be increased in the amount of three percent (3%) of the monthly allowance. The percentage increases shall be based on an assumed maximum allowance of one thousand dollars ($1,000) per month of annuity in effect the previous month.

(7) Effective July 1, 1980, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for

the life of such child or until such time as the mental condition creating the dependency no longer exists *or the child marries.* The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) The cost of providing the statutory cost-of-living increases for retired members during 1980-82, 1982-84 and 1986-88 and the cost of implementing the increases provided under subsection (3) of this section shall be funded by annual appropriations from the state on an amortized basis over the lifetime of the recipients. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the amortized payments required during the 1986-88 biennium for the cost-of-living increases approved under subsections (5) and (6) of this section.

Section 16. KRS 161.630 is amended to read as follows:

(1) A member, upon retirement shall receive a retirement allowance in the form of a life annuity, with refundable balance, as provided in KRS 161.620, unless an election is made before the effective date of retirement to receive actuarially equivalent benefits under such options as the board of trustees approves. No option shall provide for a benefit with an actuarial value at the age of retirement greater than that provided in KRS 161.620. This section does not apply to disability allowances as provided in KRS 161.661(1).

(2) The benefit option chosen by a retiree at the time of service retirement shall remain in force unless the retiree elects to make a change under the following conditions:

(a) A divorce, annulment, marriage dissolution, or death of a spouse or the death of any other designated beneficiary following retirement shall, at the election of the retiree, cancel any optional plan selected at retirement to provide continuing lifetime benefits to such beneficiary and return the retiree to his single lifetime benefit equivalent as determined by the board; or

(b) Following marriage or remarriage, a retiree may elect a new optional plan of payment based on the actuarial equivalent of his single lifetime benefit, as determined by the board. Such a plan shall become effective the first of the month following an application on a form approved by the board.

Section 17. KRS 161.655 is amended to read as follows:

(1) Upon the death of a member retired for service or disability, a death benefit of two thousand and five hundred dollars ($2,500) shall be paid to the member's estate *or to a party designated by the member on a form prescribed by the retirement system.* Upon the death of an active contributing member, a death benefit of two thousand dollars ($2,000) shall be paid to the member's estate *or to a party designated by the member on a form prescribed by the retirement system.* Application for the death benefit shall be made to the teachers' retirement system together with acceptable evidence of death and eligibility.

(2) Suit or civil action shall not be required for the collection of the death benefit provided herein, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit.

SECTION 18. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

Any active contributing member with less than five (5) years of Kentucky service may apply and be approved for disability retirement under KRS 161.661 if the member is found to be mentally or physically incapacitated as a result of an injury related directly to their covered employment. All conditions and restrictions specified under KRS 161.661 shall be applicable except that the initial annual disability allowance shall be equal to fifty percent (50%) of the member's current annual contract salary and the member's last annual contract salary shall be used in lieu of the final average salary in the recalculation of the member's benefit at the expiration of the eligibility period.

Section 19. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist and the provisions of this Act shall become effective July 1, 1988.

The Committee Amendment No. 1 to **HB 764** is as follows:

Amend printed copy of **HB 764** on page 1, line 11, by placing a bracket before the word "any" and striking through all language through the number "49" on page 1, line 14, and by placing a closed bracket after the number "49" and by inserting in lieu thereof the following: "*the superintendent of public instruction, principal assistants to the superintendent of public instruction and all division directors in the state department of education*".

The Committee Amendment No. 2 to **HB 764** is as follows:

Amend printed copy of **HB 764** on page 37, line 14, following the word "*having*" by adding the following: "*at least twenty-seven (27) years of Kentucky service but*";

On page 37, lines 18 and 19 after "*(30)*" deleting "*but not more than twenty-seven (27) years of service*";

On page 44, line 2, by adding the word "*or*" after "*annulment,*"; and by deleting all language beginning with "*, or*" through the word "*beneficiary*" on line 4;

On page 44, line 6, by deleting the word "*lifetime*";

On page 44, line 9, by adding the following after "*remarriage,*": "*or the death of a spouse or the death of any other designated beneficiary,*";

On page 44, line 11, by adding after the word "*benefit*" the phrase "*at the time of such election*".

The Committee Amendment No. 3 to **HB 764** is as follows:

Amend printed copy of **HB 764** on page 5, line 16, after the word "*member*" add "*for services performed*";

On page 22, line 11, after the word "total", add "*paid*" and strike through and place brackets around "of employment";

On page 22, lines 12, 13, and 14, delete all new material and before the word "five" insert "*one hundred eighty (180) days of a one hundred eighty-five (185) day contract*" and strike through and place brackets before the word "five" and after the word "agreement" on line 14;

On page 22, line 15, after the word "year." add the following: *In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to regulations established by the board of trustees.*"

On page 30, line 21, after the word "*back*" add "*salary*";

On page 30, line 22, after "*on the*" add "*salary*";

On page 30, line 23, after the word "*interest*" add "*to be paid by the employer*".

The Committee on State Government reported **HB 305**, **HB 419**, **HB 464** with Committee Substitute attached thereto, **HB 510** with Committee Substitute attached thereto, **HB 534**, **HB 637**, **HB 643**, **HB 750** with Committee Substitute attached thereto, **HB 785** with Committee Substitute attached thereto, **HB 788**, **HB 811**, **HB 833**, **HB 932**, **HB 973** with Committee Substitute attached thereto, **SB 11**, **SB 23**, **SB 24**, **SB 29**, **SB 163**, **SB 174** and **SB 180** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 305, AN ACT relating to retirement credit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.552 is amended to read as follows:

(1) Any employe of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement plan or legislators' retirement plan or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employe of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(3) Any employe of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(4) An employe of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(5) An employe or former employe, not yet retired who has not withdrawn his contributions pursuant to KRS 61.625, of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(6) Effective July 15, 1986, service credit obtained under subsections (1) to (4) of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, or in the event of his death to his properly designated beneficiary if the member does not obtain for service performed six (6) months current service credit in either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan, or as an employe of a parted employer.

(7) Any employe of a county participating in the county employes retirement system, or any employe of a department participating in the Kentucky employes retirement system, who has obtained for service performed six (6) months current service credit in either retirement system, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate

in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the county employes retirement system or the Kentucky employes retirement system for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employes or Kentucky employes retirement system. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.510 to 16.652 or 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employes of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1986, any employe of a county participating in the county employes retirement system, or any employe participating in the Kentucky employes retirement system, or any employe participating in the state police retirement system may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employe participating in the state police retirement system, Kentucky employes retirement system, or the county employes retirement system may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employe participating in the state police retirement system, Kentucky employes retirement system, or the county employes retirement system may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, *or for any period of approved sick leave without pay,* by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

HB 419, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives, or any other entity, the employes of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, *tips* and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except that for members of the general assembly it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the general assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; nineteen hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(8) except the employe shall pay a single payment of fifty percent (50%) of the total cost of such service with no cost to the employer, and such payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system; and

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system.

HB 464, AN ACT relating to benefits for state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, the following definitions shall apply:

(a) "Cafeteria plan" shall mean a flexible benefits plan which meets the requirements of Section 125 of the Internal Revenue Code;

(b) "Employe" shall mean a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member to any one of the retirement systems administered by the state. Any federally funded time-limited employe may receive insurance coverage. It shall also include a person who fulfills the requirements established by the state board of education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky retirement systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employe as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky retirement systems.

(2) As part of the employe benefits provided to state employes under KRS Chapter 18A, the department of personnel shall develop and make available to all eligible employes a flexible benefits plan which meets the requirements for treatment as a cafeteria plan under Section 125 of the Internal Revenue Code. The plan shall be in writing and shall be available on an equal basis to all eligible employes.

(3) Options available under the plan shall include, but are not limited to:

(a) Standard health insurance or health maintenance organization coverage;

(b) Catastrophic illness coverage;

(c) Dental insurance benefits;

(d) Deferred compensation;

(e) Cash; and

(f) Any other benefits which may be offered under the provisions of the internal revenue code and which the department determines to be in the best interests of state employes.

(4) Any employe who, in writing, rejects standard health insurance or health maintenance organization coverage procured by the secretary of finance pursuant to KRS 18A.225(2) shall be given the opportunity to direct that fifty percent (50%) of the amount which would have been applied toward health insurance premiums be applied toward the purchase of options offered under the cafeteria plan, deferred compensation, or be returned to the employe in cash. Once an option is chosen, it shall remain in effect until the end of the period for which rejection of health coverage is made, unless an employe experiences a change in family status which necessitates revision of his benefit election.

(5) Any employe who elects standard health insurance or health maintenance organization coverage, but still desires to participate in other options offered under the plan, may direct that any options elected shall be funded through payroll deduction. The election shall be made in writing, and once an option is chosen, it shall not be changed until the end of the period of which election of health coverage is made unless the employe experiences a change in family status which necessitates a revision of his benefit election.

(6) The flexible benefits plan authorized by this Act shall be developed and made available to employes no later than September 31, 1988, and shall take effect on November 1, 1988.

The Committee Substitute to **HB 464** is as follows:

HB 464, AN ACT relating to benefits for state employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section, the term "state employe" means a person, including an elected public official, who is regularly employed by any department, board, agency or branch of state government, and who is a contributing member of any retirement system administered by the state.

(2) The department of personnel may establish a flexible benefit plan for state employes and promulgate administrative regulations governing the plan. The flexible benefit plan may provide to a state employe the option to choose deductions, or salary reductions, from his pay for insurance, including, but not limited to the following types:

(a) Group;

(b) Disability;

(c) Health and accident;

(d) Dental;

(e) Vision;

(f) Pre-paid legal; and

(g) Dependent care.

HB 510, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system; and

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employes as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system, and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; [~~and~~]

(e) *Establish a program to advise each currently employed member of the Kentucky employes retirement system or the county employes retirement system with more than two (2) years of continuous service credit and less than twenty-five (25) years of service credit on how to combine Kentucky or county employes retirement system benefits, federal social security benefits and deferred compensation programs established pursuant to KRS Chapter 18A to achieve his retirement objectives. Special emphasis shall be given to planning for early retirement. The board shall advise each such member by July 1, 1990, and thereafter shall continually monitor the state employe population and the membership of the county employes retirement system to ensure that members are advised as they become eligible. The board shall, in cooperation with the commissioner of personnel, develop procedures to notify each new state employe, at the time of his initial employment, of the existence of the advisory program on retirement objectives, and shall notify all members with twenty-five (25) or more years of service credit, but shall be required to advise only those who request such service; and*

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred and twenty (120) days of the board action.

Section 2. KRS 161.580 is amended to read as follows:

(1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's contribution and interest accumulations. Such individual accounts shall be identified in the records of the system by name, date of birth, and social security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation

of the assets and liabilities of the various funds of the retirement system.

(2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the teachers' retirement system.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the executive secretary, and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met;

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

(6) The board shall establish a program to advise each active contributing member with more than two (2) years of service credit and less than twenty-five (25) years of service credit on how to combine teachers retirement system benefits and tax sheltered annuity benefits from a program established pursuant to KRS 161.705 to achieve his retirement objectives. Special emphasis shall be given to planning for early retirement. The board shall advise each such member by July 1, 1990, and thereafter shall continually monitor the membership of the system to ensure that members are advised as they become eligible. The board shall notify each new member at the time of his initial employment, of the existence of the advisory program on retirement objectives, and shall notify all active contributing members with twenty-five (25) or more years of service credit, but shall be required to advise only those who request such service.

Section 3. KRS 18A.265 is amended to read as follows:

[~~(1)~~] Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employes of this state. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe. But, any sum so deducted shall not be included in the computation of any income taxes withheld on behalf of any such employe.

[~~(2) The board shall, jointly with the board of trustees of the Kentucky retirement systems, prepare~~

~~and implement a program for advising employes on coordinating deferred compensation plans and retirement programs in order to achieve their retirement objectives.~~]

The Committee Substitute to **HB 510** is as follows:

HB 510, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system; and

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employes as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system, and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; [~~and~~]

(e) *Establish a coordination process with the deferred compensation board, in order that the deferred compensation board may advise each currently employed member of the Kentucky employes retirement system or the county employes retirement system with more than two (2) years of continuous service credit and less than twenty-five (25) years of service credit on how to combine Kentucky or county employes retirement system benefits, federal social security benefits and deferred compensation programs established pursuant to KRS Chapter 18A to achieve his retirement objectives. Special emphasis shall be given to planning for early retirement. The deferred compensation board shall advise each such member by July 1, 1990, and thereafter shall continually monitor the state employe population and the membership of the county employes retirement system to ensure that members are advised as they become eligible. The deferred compensation board shall, in cooperation with the commissioner of personnel, develop procedures to notify each new state employe, at the time of his initial employment, of the existence of the advisory program on retirement objectives, and shall notify all members with twenty-five (25) or more years of service credit, but shall be required to advise only those who request such service; and*

(f) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred and twenty (120) days of the board action.

Section 2. KRS 161.580 is amended to read as follows:

(1) The board of trustees shall provide for the maintenance of an individual account for each member showing the amount of the member's contribution and interest accumulations. Such individual accounts shall be identified in the records of the system by name, date of birth, and social security number. It shall collect and keep in convenient form such data as is necessary for the preparation of the required mortality and service tables and for the compilation of such other information as is required for the actuarial valuation of the assets and liabilities of the various funds of the retirement system.

(2) The board shall prepare and furnish to all active contributing members a summary plan description, written in a manner calculated to be understood by the average member or annuitant, and sufficiently accurate and comprehensive to reasonably apprise them of their rights and obligations under the teachers' retirement system.

(3) The summary plan description shall include:

(a) The name of the retirement system, the name and address of the executive secretary, and the name, address and title of each member of the board of trustees;

(b) The name and address of the person designated for the service of legal process;

(c) The system's requirements for participation and benefits;

(d) A description of retirement formulas for normal, early and disability retirement, and survivor benefits;

(e) A description of the requirements for vesting of pension benefits;

(f) A list of circumstances which would result in disqualification, ineligibility, or denial or loss of benefits;

(g) The sources of financing retirement benefits, and statutory requirements for funding;

(h) A statement after each actuarial valuation as to whether funding requirements are being met;

(i) The procedures to be followed in presenting claims for benefits under the plan, and the remedies available under the plan for the redress of claims which are denied in whole or in part.

(4) The board may publish the summary plan description in the form of a comprehensive pamphlet or booklet, or in the form of periodic newsletters which shall incorporate all the information required in the summary plan description within a period of two (2) years. Any changes in statutory requirements or administrative practices which alter the provisions of the plan as described in the summary plan description shall be summarized as required in subsection (2) of this section and furnished to active contributing members in the form of a supplement to a comprehensive booklet, or reported in the periodic newsletter.

(5) The board shall provide to annuitants so much of the summary plan description as they need to understand changes in benefits which apply to them.

(6) The board shall establish a coordination process with the deferred compensation board, in order that the deferred compensation board may advise each active contributing member with more than two (2) years of service credit and less than twenty-five (25) years of service credit on how to combine teachers retirement system benefits and tax sheltered annuity benefits from a program established pursuant to KRS 161.705, and deferred compensation programs established pursuant to KRS Chapter 18A, to achieve his retirement objectives. Special emphasis shall be given to planning for early retirement. The deferred compensation board shall advise each such member by July 1, 1990, and thereafter shall continually monitor the membership of the system to ensure that members are advised as they become eligible. The deferred compensation board shall notify each new member at the time of his initial employment, of the existence of the advisory program on retirement objectives, and shall notify all active contributing members with twenty-five (25) or more years of service credit, but shall be required to advise only those who request such service.

Section 3. KRS 18A.265 is amended to read as follows:

[~~(1)~~] Such a deferred compensation program shall be in addition to any retirement or any other benefit program provided by law for employes of this state. Any income deferred under such a plan shall continue to be included as regular compensation for the purpose of computing the retirement and pension benefits earned by any employe. But, any sum so deducted shall not be included in the computation of any income taxes withheld on behalf of any such employe.

[~~(2) The board shall, jointly with the board of trustees of the Kentucky retirement systems, prepare and implement a program for advising employes on coordinating deferred compensation plans and retirement programs in order to achieve their retirement objectives.~~]

HB 534, AN ACT relating to state police retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.546 is amended to read as follows:

(1) Any member of the Kentucky employes retirement system or the state police retirement system whose retirement date is July 14, 1984 or thereafter, shall receive credit for unused sick leave accrued while contributing to the retirement system from which the retirement benefit is to be paid in accordance with this section.

(2) Upon the member's notification of retirement as prescribed in KRS 16.576 or 61.590, the employer shall certify the retiring member's unused, accumulated sick leave balance to the board of trustees of the Kentucky retirement systems. The member's sick leave balance, expressed in days, shall be divided by the average number of working days per month in the state service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick leave balance, expressed in months, shall be added to *the service credit of a member of the Kentucky employes retirement system* [~~his service credit~~] for the purpose of determining his annual retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.702 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652 or KRS 61.510 to 61.702. *All of a state policeman's sick leave balance, expressed in months, shall be added to his service credit for the purposes of determining his annual retirement allowance and whether the member is eligible to receive a retirement allowance under KRS 16.510 to 16.652.*

(3) The provisions of this section shall not apply to a participating agency whose employes are not employed by the Commonwealth until the agency certifies to the board that a sick leave program has been formally adopted and is universally administered within the agency.

HB 637, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The commissioner shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting and special leaves of absence, provided that the commissioner shall not promulgate administrative regulations that would reduce the rate at which employes may accumulate leave time below the rate effective on December 10, 1985; and Regulations for the unclassified service.

(2) (a) Except as provided by KRS 18A.355, the commissioner shall not promulgate administrative regulations that would reduce an employe's salary;

(b) As provided by KRS 18A.0751(4)(c), the commissioner may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months, but not to exceed twelve (12) months, to the board for its approval.

(3) (a) Such administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the commissioner shall not expand or restrict rights granted to, or duties imposed upon, employes and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the department of personnel shall promulgate administrative regulations governing the subject matters specified in this section.

(4) Prior to filing an administrative regulation with the legislative research commission, the commissioner shall submit such administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the commissioner not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the commissioner;

(c) The commissioner shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the commissioner has completed the review provided for in this section, he may file the proposed administrative regulation with the legislative research commission pursuant to the provisions of KRS Chapter 13A.

(5) The administrative regulations shall provide:

(a) For the preparation, maintenance and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for and the same schedule of pay may be equitably applied to all positions in the same class;

1. The commissioner shall allocate the position of every employe in the classified service to one (1) of the classes in the plan. The commissioner shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position *with no reduction in salary*;

2. The secretary of the finance and administration cabinet may review and approve all proposed position establishments and abolishments on the basis of the availability of funds. Reclassifications and reallocations may also be reviewed and approved by the secretary of the finance and administration cabinet on the basis of the availability of funds. The finance and administration cabinet shall notify the department of any review and approval conducted under the provisions of this section;

(b) For a pay plan for all employes in the classified service, after consultation with appointing authorities and the secretary of the finance and administration cabinet. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employe shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employe's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. Such examinations shall be announced publicly at least fifteen (15) days in advance of the date fixed for the filing of applications therefor, and may be advertised through the press, radio and other media. The commissioner shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The commissioner shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness which in his judgment serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, eligibility lists shall expire automatically at the end of two (2) years, unless the life of a list is extended by action of the commissioner for a period not to exceed one (1) additional year;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the commissioner in regard to such factors as age, physical condition, training and experience; or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For emergency employment for not more than thirty (30) working days with or without examination, with the consent of the commissioner;

(h) For provisional employment without competitive examination when there is no appropriate eligible list available. No such provisional employment shall continue longer than six (6) months, nor shall successive provisional appointment be allowed to the same position;

(i) For annual, sick and special leaves of absence, with or without pay, or reduced pay, after approval by the governor as provided by KRS 18A.155(1)(d);

(j) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(k) For the development and operation of programs to improve the work effectiveness of employes in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, and employe relations;

(l) For such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

HB 643, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employe appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner;

(2) "Base salary or wages," means the compensation to which an employe is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the personnel board created by KRS 18A.045;

(4) "Career employe" shall mean a state employe with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employes by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(8) "Commissioner" means the commissioner of the department of personnel as provided for in KRS 18A.015;

(9) "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(10) "Department" means the department of personnel provided for in KRS 18A.015 unless the context indicates otherwise;

(11) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.005 to 18A.200 and who has qualified to be placed on a register;

(12) "Emergency employe" means an employe appointed without regard to the examination requirements of KRS 18A.005 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;

(13) "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(14) "Federally funded time-limited employe" means an employe appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in this chapter;

(15) "Federally funded time-limited position" means a position created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

(16) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.005 to 18A.200 which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. *If the appointee is granted leave with or without pay during this period, his initial probation shall be extended to cover such absence.* "Initial probation" does not include a probationary period served by a laid-off employe who accepts a bona fide written offer of appointment;

(17) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion or responsibility of an employe without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employes;

(18) "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(19) "Promotion" means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(20) "Promotional probation" means the six (6) month period of service following the promotion of an employe with status which must be successfully completed in order for the employe to retain the position to which he has been promoted. *If the employe is granted leave with or without pay during this period, his promotional probation shall be extended to cover such absence;*

(21) "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under KRS 18A.005 to 18A.200 without examination, such appointment being made necessary by the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(5)(h);

(22) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employe has been and shall continue to perform;

(23) "Reclassification" shall mean the change in the classification of an employe when a material and permanent change in the duties or responsibilities of that employe occurs;

(24) "Reemployment" shall mean the rehiring of an employe with status who has been laid off;

(25) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(26) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(27) "Reinstatement" shall mean the restoration of an employe who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

(28) "Seasonal employe" means an employe appointed to a seasonal position;

(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months duration;

(30) "Seniority" means the total number of months of state service;

(31) "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employe in the classified service;

(32) "Temporary employe" means an employe appointed to a temporary position;

(33) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;

(34) "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service and the same salary received immediately prior to transfer;

(35) A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between December 7, 1941, and July 1, 1955 or between August 6, 1964 and May 7, 1975.

Section 2. KRS 18A.0751 is amended to read as follows:

(1) The board shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Appeals by state employes;

(b) Demotion;

(c) Dismissal;

(d) Fines, suspensions, and other disciplinary measures;

(e) Probation, provided that the board may not require an initial probationary period in excess of six (6) months except as provided in subsection (4)(e) of this section *and KRS 18A.005*;

(f) Promotion;

(g) Reinstatement;

(h) Transfer; and

(i) Employe grievances and complaints.

(2) (a) Such administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law, when approved by the board, after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the board shall not expand or restrict rights granted to, or duties imposed upon, employes and administrative bodies by the provisions of this chapter; and

(c) No administrative body, other than the personnel board, shall promulgate administrative regulations governing the subject matters specified in this section.

(3) Prior to filing an administrative regulation with the legislative research commission, the board shall submit such administrative regulation to the commissioner for review:

(a) The commissioner shall review the administrative regulation proposed by the board not less than twenty (20) days after its submission to him;

(b) Not less than five (5) days after his review, the commissioner shall submit his recommendations in writing to the board;

(c) The board shall review the recommendations of the commissioner and may revise the proposed administrative regulation as it deems necessary; and

(d) After the board has completed the review provided for in this section, it may file the proposed administrative regulation with the legislative research commission pursuant to the provisions of KRS Chapter 13A.

(4) Such administrative regulations shall provide:

(a) For the procedures to be utilized by the board in the conduct of hearings by the board;

(b) For reduction in rank or grade as provided by this chapter;

(c) For discharge, as provided by this section;

(d) For imposition, as disciplinary measures, of a fine of not more than ten (10) working days' pay, or for suspension from the service without pay for no longer than thirty (30) working days and, in accordance with the provisions of KRS 18A.095, for the manner of notification of the employe of the discipline and his right of appeal;

(e) No probationary period may exceed twelve (12) months, *except as provided in KRS 18A.005*. The commissioner may recommend an initial probationary period in excess of six (6) months for specific job classifications to the board. Such recommendation shall take the form of a proposed administrative regulation that shall be submitted to the board for approval. The subject of such administrative regulation shall be limited to job classifications for which an initial probationary period in excess of six (6) months is required and shall specify:

1. The job classification for which an initial probationary period in excess of six (6) months is required; and

2. The specific number of months constituting the initial probationary period, not to exceed twelve (12) months, for the job classification. No other administrative regulation shall include any provision prescribing an initial probationary period in excess of six (6) months, *except as provided in KRS 18A.005*. Upon approval by the board of the proposed administrative regulation provided for herein, the board shall file such regulation with the legislative research commission as provided by KRS Chapter 13A;

(f) For promotions which shall give appropriate consideration to the applicant's qualifications, record of performance, conduct and seniority. Except as provided by this chapter, vacancies shall be filled by promotion whenever practicable and in the best interest of the service;

(g) For reemployment of laid-off employes in accordance with the provisions of this chapter;

(h) For transfer from a position in one (1) department to a similar position in another department involving similar qualifications, duties, responsibilities, and salary ranges as provided by the provisions of KRS 18A.1131(3)(a);

(i) For establishment of a plan for resolving employe grievances and complaints. Such plan shall not restrict rights granted employes by the provisions of this chapter;

(j) For promotion of career employes to positions in the unclassified service without loss of status to the individual employes so promoted, as provided by this chapter; and

(k) For such other administrative regulations not inconsistent with this chapter and KRS Chapter 13A as may be proper and necessary for its enforcement.

Section 3. KRS 18A.111 is amended to read as follows:

(1) Except when appointed to a job classification with an initial probationary period in excess of six (6) months, *and except as provided in KRS 18A.005* an employe shall serve a six (6) months probationary period when he is initially appointed to the classified service. An employe may be separated from his position, reduced in class or rank, or replaced on the eligible list during this initial probationary period and shall not have a right to appeal except as provided by KRS 18A.095. If the employe is separated from his position, he shall be notified in writing at least ten (10) working days prior to separation. A copy of the notification shall be forwarded to the commissioner. The employe shall be placed on an eligible list but shall not be certified to the agency from which he was separated unless that agency so requests. Unless the appointing authority notifies the employe prior to the end of the initial probationary period that he is separated, the employe shall be deemed to have served satisfactorily and shall acquire status in the classified service.

(2) An employe who satisfactorily completes the initial probationary period for the position to which he was initially appointed to the classified service shall be granted status and may not be demoted, disciplined, dismissed, or otherwise penalized except as provided by the provisions of this chapter.

(3) An employe ordered reinstated by the board shall not be required to serve a probationary period unless the board rules otherwise, as provided in KRS 18A.095.

(4) An employe with status, who has been promoted, shall serve a promotional probationary period of six (6) months, *except for those employes granted leave with or without pay during this period. Such probationary periods shall be extended as prescribed in KRS 18A.005.* During this period, he shall retain the rights and privileges granted by the provisions of this chapter to status employes.

(5) An employe with status may request that he be reverted to a position in his former class at any time during the promotional probationary period.

(6) A laid-off employe who accepts a bona fide written offer of appointment to a position shall not be required to serve an initial probationary period. Such an employe shall serve a promotional probationary period. He shall be an employe with status and shall have all rights and privileges granted employes with status under the provisions of this chapter.

HB 750, AN ACT relating to personnel board elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.0551 is amended to read as follows:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The department shall provide written notification of the date of the election to all classified employes on or before May 1; and

(b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employe wishing to serve on the board shall notify the department, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, social security number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the department shall certify a payroll that is current on such day and that contains the name, social security number and home address of every classified employe.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the department shall mail to each classified employe whose name appeared on the payroll certified by the department at his home address:

(a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;

(b) Instructions for voting[~~, including the instruction that the employe shall write his name, address and social security number in the upper left corner of the reply envelope~~];

(c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and

(d) *Two (2) envelopes* [~~An envelope~~] for returning the ballot. Prior to mailing the *envelopes* [~~envelope~~] to a state employe, *one (1) envelope* [~~it~~] shall be addressed by the department to the impartial third party selected by the department to receive, validate and tabulate the ballots at a post office box rented by the department for the election. The upper left corner of the *pre-addressed or outer* envelope shall contain a sufficient number of blank lines and spaces to permit an employe to *print* [~~write~~] his name *and*[~~,~~] address. *The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employe to print his name, address, social security number, the date and to affix his signature* [~~and social security number in such corner~~].

(4) Upon receipt of his ballot, a classified employe wishing to participate in the election provided for in subsection (1) of this section shall:

(a) Vote for no more than two (2) candidates;

(b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote; [~~and~~]

(c) Print his name, address, and social security number in the upper left corner of the *pre-addressed or outer* [~~reply~~] envelope provided by the department*;*

(d) Print his name, address, social security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the department;

(e) Seal his ballot in the second or inner envelope; and

(f) Seal the second or inner envelope in the pre-addressed or outer envelope, affix a stamp to it, and post it.

(5) The department shall:

(a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;

(b) Acquire a post office box to which all ballots shall be mailed; and

(c) Provide the impartial third party with a computer generated list of the names and social security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their social security numbers. The names and social security numbers listed on *the* [~~such~~] list shall correspond to those appearing on the payroll certified by the department under subsection (2) of this section.

(6) The impartial third party selected by the department shall collect all ballots, unopened, from the post office box. It shall:

(a) 1. *Remove the second or inner envelope containing the ballot from the pre-addressed or outer envelope;*

2. Verify the name and social security number on each envelope by comparing them to the computer generated list of names and social security numbers of eligible voters provided by the department; [~~and~~]

3.[~~2.~~] Set aside, unopened, any *pre-addressed or outer* envelope containing a name or a social security number [~~on the envelope~~] that does not match the name and the social security number appearing next to the name on the computer generated list;

4. Set aside, unopened, any second or inner envelope not completed as prescribed in paragraph (c) of subsection (4) of this section;

(b) Examine the postmark on each envelope;

(c) Set aside, unopened, any envelope postmarked with a date subsequent to the deadline provided for by this section;

(d) Remove the ballot from each envelope;

(e) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs (a)*3.*[~~2.~~] and (c) of this subsection shall not be counted;

(f) Compare the total tabulated vote with the total number of eligible employes appearing on the computer generated list provided by the department;

(g) Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the department; and

(h) Certify to the department:

1. That the tabulation does not include two (2) or more ballots with the same social security number;

2. The total number of ballots received;

3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;

4. The total number of ballots included in the tabulation; and

5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes and other election materials provided for by this section shall be public record and open to inspection.

(8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the department no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employes shall not use state materials or equipment for any purpose related to the election of classified employes to the board, nor shall any activity related to the election of a classified employe to the board be conducted during working hours.

The Committee Substitute to **HB 750** is as follows:

HB 750, AN ACT relating to personnel board elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.0551 is amended to read as follows:

(1) (a) Elections to the board shall be scheduled every four (4) years on or before July 1. The department shall provide written notification of the date of the election to all classified employes on or before May 1;

and

(b) Upon receipt of the notification provided for by paragraph (a) of this subsection, an employe wishing to serve on the board shall notify the department, in writing, no later than June 1. This notification shall be notarized and shall include the candidate's name, address, social security number, job classification, and length of state employment. It shall also include the name and address of his current employer.

(2) On the last working day of May, the department shall certify a payroll that is current on such day and that contains the name, social security number and home address of every classified employe.

(3) At least fifteen (15) working days prior to the election provided for in subsection (1) of this section, the department shall mail to each classified employe whose name appeared on the payroll certified by the department at his home address:

(a) A list of candidates for election to the board, in alphabetical order, with a brief biography following the name of each candidate;

(b) Instructions for voting[~~, including the instruction that the employe shall write his name, address and social security number in the upper left corner of the reply envelope~~];

(c) A ballot listing the names of all candidates for election to the board in alphabetical order and providing a blank space next to each name; and

(d) *Two (2) envelopes* [~~An envelope~~] for returning the ballot. Prior to mailing the *envelopes* [~~envelope~~] to a state employe, *one (1) envelope* [~~it~~] shall be addressed by the department to the impartial third party selected by the department to receive, validate and tabulate the ballots at a post office box rented by the department for the election. The upper left corner of the *pre-addressed or outer* envelope shall contain a sufficient number of blank lines and spaces to permit an employe to *print* [~~write~~] his name *and* [~~,~~] address. *The upper left corner of the second or inner envelope shall contain a sufficient number of blank lines and spaces to permit an employe to print his name, address, social security number, the date and to affix his signature* [~~and social security number in such corner~~].

(4) Upon receipt of his ballot, a classified employe wishing to participate in the election provided for in subsection (1) of this section shall:

(a) Vote for no more than two (2) candidates;

(b) Mark his ballot by placing a mark in the blank space next to the name of the candidate for whom he is casting his vote; [~~and~~]

(c) Print his name *and* [~~,~~] address [~~and social security number~~] in the upper left corner of the *pre-addressed or outer* [~~reply~~] envelope provided by the department*;*

(d) Print his name, address, social security number, the date, and affix his signature in the upper left corner of the second or inner envelope provided by the department;

(e) Seal his ballot in the second or inner envelope; and

(f) Seal the second or inner envelope in the pre-addressed or outer envelope, affix a stamp to it, and post it.

(5) The department shall:

(a) Select an impartial third party to receive, validate, and tabulate all returned ballots as provided by this subsection and subsection (6) of this section;

(b) Acquire a post office box to which all ballots shall be mailed; and

(c) Provide the impartial third party with a computer generated list of the names and social security numbers of eligible voters, with the names of the eligible voters in numerical sequence as determined by their social security numbers. The names and social security numbers listed on *the* [~~such~~] list shall correspond to those appearing on the payroll certified by the department under subsection (2) of this section.

(6) The impartial third party selected by the department shall collect all ballots, unopened, from the post office box. It shall:

(a) [~~1. Verify the name and social security number on each envelope by comparing them to the computer generated list of names and social security numbers of eligible voters provided by the department; and~~

~~2. Set aside, unopened, any envelope containing a name or a social security number on the envelope that does not match the name and the social security number appearing next to the name on the computer generated list;~~

~~(b)~~] Examine the postmark on each envelope;

(b)[~~(c)~~] Set aside, unopened, any *pre-addressed or outer* envelope postmarked with a date subsequent to the deadline provided for by this section;

(c)[~~(d)~~] Remove the *second or inner envelope from the pre-addressed or outer* [~~ballot from each~~] envelope;

(d) Verify the name and social security number on the second or inner envelope by comparing them to the computer generated list of names and social security numbers of eligible voters provided by the department;

(e) *Set aside, unopened, any second or inner envelope containing a name and social security number that does not match the name and social security number appearing next to the name on the computer general list;*

(f) Tabulate the ballots by electronic data entry in duplicate, provided that ballots in envelopes specified in paragraphs *(b) and (e)* [~~(a)2. and (c)~~] of this subsection shall not be counted;

(g)[~~(f)~~] Compare the total tabulated vote with the total number of eligible employes appearing on the computer generated list provided by the department;

(h)[~~(g)~~] Return the ballots; envelopes, including envelopes that have not been opened; and other election material to the department; and

(i)[~~(h)~~] Certify to the department:

1. That the tabulation does not include two (2) or more ballots with the same social security number;

2. The total number of ballots received;

3. The total number of ballots not included in the tabulation, and the reason each such ballot was not included in the tabulation;

4. The total number of ballots included in the tabulation; and

5. The total vote for each candidate.

(7) For at least sixty (60) days after the completion of the tabulation provided for by subsection (6) of this section, the ballots, envelopes and other election materials provided for by this section shall be public record and open to inspection.

(8) The two (2) candidates receiving the greatest number of votes shall be declared the successful candidates. In the event of a tie vote, the tie shall be broken by a coin toss in the presence of the candidates receiving the tie vote.

(9) Successful candidates shall be notified by the department no later than five (5) working days after the election. Successful candidates shall take office immediately upon notification.

(10) State employes shall not use state materials or equipment for any purpose related to the election of classified employes to the board, nor shall any activity related to the election of a classified employe to the board be conducted during working hours.

HB 785, AN ACT relating to enterprise zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.670 is amended to read as follows:

(1) In addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988. In deciding which areas should be designated as enterprise zones the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) *In addition to the ten (10) existing enterprise zones authorized by subsection (1) of this section, the authority may designate three (3) additional enterprise zones by December 31, 1990, provided however, that the additional three (3) zones meet the following criteria:*

(a) The area designated as an enterprise zone is located within a county which has a county unemployment rate that is twice the state unemployment rate; and

(b) The area designated as an enterprise zone complies with the provisions of KRS 154.650 to 154.705.

(3) Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(4)[~~(3)~~] The authority may remove designation of any area as an enterprise zone if such area no longer meets the criteria for designation as set out in KRS 154.660 to 154.705 or by regulation adopted by the authority pursuant to KRS 154.660 to 154.705, provided that no designation shall be removed less than ten (10) years from the date of original designation. If the authority removes the designation of any area as an enterprise zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to KRS 154.690 until December 31 of the twentieth year from the date of the original designation of the area as an enterprise zone.

The Committee Substitute to **HB 785** is as follows:

HB 785, AN ACT relating to enterprise zones.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.670 is amended to read as follows:

(1) In addition to the seven (7) existing state enterprise zones, the authority may designate three (3) additional state enterprise zones by December 31, 1988. In deciding which areas should be designated as

enterprise zones the authority shall give preference to:

(a) Areas with the highest levels of poverty, unemployment, and general distress;

(b) Areas which have the widest support from the government seeking designation, the community, residents, local business and private organizations; and

(c) Areas for which the government seeking designation has made or will make the greatest effort to encourage economic activity and remove impediments to job creation including but not limited to a reduction of tax rates or fees, an increase in the level or efficiency of local services and a simplification or streamlining of governmental requirements on employers or employes, taking into account the resources available to such government to make such efforts.

(2) *In addition to the ten (10) existing enterprise zones authorized by subsection (1) of this section, the authority may designate three (3) additional enterprise zones by December 31, 1990, provided however, that the additional three (3) zones meet the following criteria: the area designated as an enterprise zone is located within a county which for the most recent twelve (12) month period has averaged twice the state unemployment rate; and the county per capita income is no more than seventy-five percent (75%) of the statewide per capita income.*

(3) Any designation of an area as an enterprise zone shall remain in effect during the period beginning on the date of designation and ending on December 31 of the twentieth year following designation.

(4)[~~(3)~~] The authority may remove designation of any area as an enterprise zone if such area no longer meets the criteria for designation as set out in KRS 154.660 to 154.705 or by regulation adopted by the authority pursuant to KRS 154.660 to 154.705, provided that no designation shall be removed less than ten (10) years from the date of original designation. If the authority removes the designation of any area as an enterprise zone pursuant to this subsection, the qualified businesses within the area shall retain certification and shall remain eligible to receive tax exemptions pursuant to KRS 154.690 until December 31 of the twentieth year from the date of the original designation of the area as an enterprise zone.

HB 788, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.576 is amended to read as follows:

(1) A member shall terminate employment on his normal retirement date.

(2) Any member with at least five (5) years of service credit may retire at his normal retirement date, or subsequent thereto, upon written notification to the board, setting forth at what time the retirement is to become effective, provided that such effective date shall be after his last day of service and subsequent to the filing of such notice.

(3) The member shall have the right to elect to have his retirement allowance payable under subsection (4), (5) or (7) of this section or any one (1) of the plans set forth in KRS 61.635.

(4) Effective August 1, *1988* [~~1986~~], the member may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *forty-five hundredths percent (2.45%)* [~~four-tenths percent (2.4%)~~] of final compensation for each year of service credit. Effective August 1, *1988* [~~1986~~], a member of the county employes retirement system *or Kentucky employes retirement system* covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and *five-tenths percent (2.5%)* [~~forty-five hundredths percent (2.45%)~~] of final compensation for each year of service credit. The annual retirement allowance for a member covered by this section shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(5) The member may elect to receive a monthly retirement allowance payable for ten (10) years certain, actuarially equivalent to the retirement allowance payable under subsection (4) of this section. If the member should become deceased prior to the expiration of ten (10) years, his beneficiary shall receive the remaining

payments monthly for the duration of the ten (10) years. The provisions of KRS 61.702 notwithstanding, the member who retired on June 17, 1978 or thereafter, and his spouse and dependents or beneficiary shall continue to receive the insurance benefits to which they are entitled pursuant to KRS 61.702 after the expiration of ten (10) years.

(6) Notwithstanding any other provisions of this section, upon written notification to the board, a member shall have the option to defer his election to receive his retirement allowance. The retirement allowance payable under a deferred option shall be increased to reflect the deferred receipt of benefits.

(7) In lieu of any other benefits due under KRS 16.505 to 16.652 a member who has attained age fifty-five (55) may elect to receive an annual retirement allowance, payable monthly or less frequently as determined by the board, which shall be determined by multiplying his accumulated contributions by two (2) and converting this amount to an annual retirement allowance based on an annuity rate adopted by the board which would pay the actuarial equivalent of twice his accumulated contributions over the lifetime of the retired member.

Section 2. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, as provided for by KRS 61.535;

(2) Medical examiners, as provided for by KRS 61.665;

(3) Actuarial bases, as provided for by KRS 61.670;

(4) Duties of the employer, as provided for by KRS 61.675;

(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;

(6) Retirement allowance increase, as provided for by KRS 61.691;

(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);

(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;

(9) Year of service credit, as provided for by KRS 61.545;

(10) Refund of contributions, death after retirement, as provided by KRS 61.630;

(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;

(12) Credit for service prior to membership date, as provided for by KRS 61.526;

(13) Transfer of dormant accounts, as provided for by KRS 61.626;

(14) Member's account, confidential, as provided for by KRS 61.661;

(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(16) Correction of errors in records, as provided for by KRS 61.685;

(17) Maximum disability benefit, as provided for by KRS 61.607;

(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(19) Employer contributions, as provided for by KRS 61.565;

(20) Reinstatement of lost service credit, as provided for by KRS 61.552;

(21) Reciprocal arrangement between systems, as provided by KRS 61.680;

(22) Refund of contributions, conditions, as provided by KRS 61.625;

(23) Hospital and medical insurance plan, as provided by KRS 61.702;

(24) Death benefit, as provided by KRS 61.705;

(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615; [~~and~~]

(26) Service credit, armed forces, as provided by KRS 61.555*; and*

(27) Retirement allowance reduction factors, as provided by Section 5 of this Act.

Section 3. KRS 61.595 is amended to read as follows:

(1) Effective August 1, *1988* [~~1986~~], upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to *two percent (2%)* [~~one and eighty-five hundredths percent (1.85%)~~] of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundred forty dollars ($240) multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits except that there shall be no reduction in the retirement allowance

of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service.

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 4. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky employes retirement system as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, armed forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employes determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employes to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702; [~~and~~]

(37) Death benefit, as provided by KRS 61.705*; and*

(38) Retirement allowance reduction factors, as provided Section 5 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Effective August 1, 1988, reduction factors to be applied to determine immediate annuity equivalent to annuity deferred to normal retirement age under KRS 16.577, 16.578, 61.595, 61.640 and 61.680 shall be as provided in Table G, unless the provisions of subsections (2) through (6) of this section are applicable and result in a higher percentage payable.

(2) A SPRS, CERS hazardous or KERS hazardous duty member who is age fifty (50) or older and would attain twenty (20) years of service, fifteen (15) years of which would be current service, prior to age fifty-five (55), if his employment had continued, shall have his retirement benefit computed based on the appropriate factors as follows:

TABLE A

Years Required to Complete 20 Years Service	*Percentage Payable*
1	*94.5%*
2	*89.0%*
3	*83.5%*
4	*78.0%*
5	*72.5%*

(3) A KERS or CERS non-hazardous member who is age fifty-five (55) or older and would attain thirty (30) years of service, fifteen (15) years of which would be current service, prior to age sixty-five (65) if employment were continued, shall have benefits computed using the appropriate factor as follows:

TABLE B

Years Required to Complete 30 Years Service	*Percentage Payable*
0	*100.0%*
1	*98.0%*
2	*96.0%*
3	*93.0%*
4	*89.0%*
5	*84.0%*
6	*80.0%*
7	*76.0%*
8	*72.0%*
9	*68.0%*
10	*64.0%*

(4) A KERS or CERS non-hazardous member who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) with twenty-five (25) or more years of service, at least fifteen (15) years of which are current service, shall have benefits computed using the appropriate factor as follows:

TABLE C

Years Required to Complete 30 Years Service	*Percentage Payable*
0	*100.0%*
1	*98.0%*
2	*96.0%*
3	*93.0%*
4	*89.0%*
5	*84.0%*

(5) A KERS or CERS non-hazardous member with less than twenty-five (25) years of service who dies prior to age fifty-five (55) or who retires prior to age fifty-five (55) based on TRS, SPRS, CERS hazardous or KERS hazardous early retirement eligibility, and who would have attained thirty (30) or more years of service, fifteen (15) years of which would be current service, on or before reaching his sixty-fifth birthday, if employment were continued, shall have benefits computed by first multiplying his deferred benefit by the percentage payable as determined from Table B based on the number of years required to complete thirty (30) years of service and multiplying this result by the percentage payable as determined from Table D based on the member's age at the time of death or early retirement.

TABLE D

Years Prior to Age 55	*Percentage Payable*
1	*97.0%*
2	*94.0%*
3	*91.0%*
4	*88.0%*
5	*85.0%*
6	*82.0%*
7	*79.0%*
8	*76.0%*
9	*73.0%*
10	*70.0%*

(6) A SPRS, CERS hazardous or KERS hazardous member who dies prior to age fifty (50) and would have attained twenty (20) or more years of service fifteen (15) of which would be current service, on or before reaching his fifty-fifth birthday, if employment were continued, shall have benefits payable as determined from Table E based on the number of years required to complete twenty (20) years of service multiplied by the percentage payable as determined from Table F based on the member's age at the time of death.

TABLE E

Years Required to Complete 20 Years Service	*Percentage Payable*
0	*100.0%*
1	*95.0%*
2	*90.0%*
3	*85.0%*
4	*80.0%*
5	*75.0%*
6	*71.0%*
7	*67.0%*
8	*63.0%*
9	*59.0%*
10	*55.0%*

TABLE F

Years Prior to Age 55	*Percentage Payable*
1	*97.0%*
2	*94.0%*
3	*91.0%*
4	*88.0%*
5	*85.0%*
6	*82.0%*
7	*79.0%*
8	*76.0%*
9	*73.0%*
10	*70.0%*

TABLE G

Early Age	*Normal Retirement Age*	
	65	*55*
64	*98.0%*	
63	*96.0%*	
62	*93.0%*	
61	*89.0%*	
60	*84.0%*	
59	*80.0%*	
58	*76.0%*	
57	*72.0%*	
56	*68.0%*	
55	*64.0%*	
54	*59.7%*	*94.5%*
53	*55.7%*	*89.0%*
52	*52.2%*	*83.5%*
51	*48.9%*	*78.0%*
50	*45.9%*	*72.5%*
49	*43.1%*	*68.8%*
48	*40.5%*	*65.2%*
47	*38.3%*	*61.7%*
46	*36.3%*	*58.2%*
45	*34.7%*	*54.7%*
44	*33.3%*	*51.3%*
43	*32.0%*	*47.9%*
42	*31.0%*	*44.9%*
41	*30.0%*	*42.1%*
40	*29.2%*	*39.5%*
39	*28.4%*	*37.1%*
38	*27.7%*	*34.9%*
37	*27.0%*	*33.0%*
36	*26.2%*	*31.3%*
35	*25.5%*	*29.9%*
34	*24.7%*	*28.7%*
33	*24.0%*	*27.6%*
32	*23.3%*	*26.7%*
31	*22.7%*	*25.8%*
30	*22.1%*	*25.1%*
29	*21.5%*	*24.4%*
28	*20.9%*	*23.8%*
27	*20.3%*	*23.2%*
26	*19.7%*	*22.5%*
25	*19.1%*	*21.9%*

The members exact age in years and months shall be determined and the above factors shall be used to extrapolate in order to determine the appropriate factors.

(7) Benefits paid in the event of death prior to retirement shall be reduced pursuant to this section and further reduced as required by KRS 61.640.

HB 811, AN ACT relating to permitted investments of the Kentucky Agricultural Finance Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 247.946 is amended to read as follows:

The corporation shall have all of the powers necessary or convenient to carry out and effectuate the purposes and provisions of KRS 247.940 to 247.978 including, but without limiting the generality of the foregoing, the power:

(1) To adopt bylaws for the regulation of its affairs and the conduct of its business and to prescribe rules, regulations and policies in connection with the performance of its functions and duties;

(2) To review the projects authorized to be financed by KRS 247.940 to 247.978 in order to determine the following:

(a) The qualifications of the applicant as a party entitled to financing assistance under the provisions of KRS 247.940 to 247.978 and the rules and regulations of the corporation;

(b) The qualifications of the applicant in the areas of experience, training and financial ability in relation to the project for which assistance is sought and such other areas as the corporation shall determine necessary and desirable in implementing the intent of KRS 247.940 to 247.978 in the promotion of agriculture throughout the Commonwealth. Analysis shall include a careful evaluation of character, experience, record, and prospects for sound financial management and sound operation of the project. Financial ability factors to be considered shall include the applicant's total assets controlled, equity owned, contingent liabilities, history of earnings to date, and repayment capacity, as well as other factors set by the corporation. Consideration may be given to the special needs of beginning farmers;

(c) The economic need for the project in the area based upon general economic conditions and unemployment in the region;

(d) The economic soundness of the project based upon generally accepted cost-benefit methodology; and

(e) Consistency of the project with other policies of the Commonwealth designed to ensure a sustained land base for agriculture including preservation of prime farmland and promotion of soil conservation techniques for protection of farmland.

(3) To issue in its issuing agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; and in addition to the powers conferred hereunder, to have all the authority delegated to cities and counties pursuant to the provisions of KRS 103.200 through 103.285; provided, however, that obligations issued by the corporation in its issuing agency capacity shall not be subject to the jurisdiction or approval of the industrial revenue bond oversight committee or the state property and buildings commission but shall be subject to the review of the division of investment and debt management;

(4) To issue in its lending agency capacity its negotiable revenue obligations for the purpose of financing qualified projects for qualified applicants in order to promote the general agricultural economy of the Commonwealth; provided, however, that bonds issued by the corporation in its lending agency capacity in accordance with KRS 247.950 shall be subject to the review of the division of investment and debt management;

(5) To make or participate in the making of insured mortgage loans to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(6) To purchase or participate in the purchase of mortgage loans made to qualified applicants for the purpose of purchasing agricultural real estate and improvements;

(7) To make or participate in the making of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock;

(8) To purchase or participate in the purchase of loans to qualified applicants for the purpose of purchasing machinery, equipment and livestock;

(9) To make or participate in the making or to purchase or participate in the purchase of loans to qualified applicants for the purpose of leasing equipment, introducing new agricultural commodities or enhancing agricultural markets;

(10) To collect and pay reasonable fees and charges in connection with making, purchasing and servicing its loans, notes, bonds, commitments and other evidences of indebtedness;

(11) To acquire real and personal property, or any interest therein, by purchase, foreclosure, lease, sublease, or otherwise; to own, manage and operate such real and personal property; to sell, assign, exchange, transfer, convey, lease, mortgage or otherwise dispose of or encumber such real and personal property where necessary or appropriate to the purposes of the corporation;

(12) To sell, at public or private sale, all or any part of any real estate mortgage or chattel mortgage

or other instrument or document securing any loan permitted by KRS 247.940 to 247.978;

(13) To procure insurance against any loss in connection with its operations in such amounts and from such insurers, as it may deem necessary or desirable;

(14) To consent, whenever the corporation deems necessary or desirable in the fulfillment of its corporate purposes, to the modification of interest rates, time of payment of principal or interest, or any other terms of any loan, contract or agreement of any kind to which the corporation is a party;

(15) To include in any borrowing such amounts as may be deemed necessary by the corporation to pay financing charges, capitalized interest, consultant, advisory and legal fees and such other expenses as are necessary or incident to such borrowing;

(16) To make and publish rules and regulations respecting its lending programs and such other rules and regulations as are necessary to effectuate its corporate purposes;

(17) To make, execute and effectuate any and all agreements or other documents with any governmental agency or any person, corporation, association, partnership or other organization or entity, necessary to accomplish the purposes of KRS 247.940 to 247.978;

(18) To accept gifts, devises, bequests, grants, loans, appropriations and other assistance and any other aid from any source whatsoever and to agree to and to comply with conditions attached thereto;

(19) To sue and be sued in its own name;

(20) To maintain an office in the city of Frankfort and at such other place or places as it may determine;

(21) To employ fiscal consultants, engineers, attorneys, appraisers and such other agents and employes as may be required in the judgment of the corporation and to fix and pay their compensation from funds available to the corporation therefor; and

(22) To invest any funds held in sinking funds, reserve funds or trust fund accounts or any moneys not required for immediate disbursement by the corporation in*:*

(a) Obligations of or guaranteed by the Commonwealth, United States of America or their respective agencies and instrumentalities;

(b) Certificates of deposit and other evidences of deposit at state and federal chartered banks and savings and loan associations, fully collateralized as to any principal amount in excess of the amount insured by the United States government or any agency thereof;

(c) A guaranteed investment or similar contract, which provides for the investment of funds at a guaranteed rate of return, with an insurance company or depository financial institution with a claim paying rating of no less than either of the two (2) highest grades given by a nationally recognized rating agency; and

(d) Any other investment authorized by law for the investment of funds of the Commonwealth [~~subject, however, to federal law and regulations relating to the investment of the proceeds of obligations the interest on which is exempt from federal income taxation~~].

HB 833, AN ACT relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.165 is amended to read as follows:

(1) Candidates for offices to be voted for by the electors of one (1) county or of a district less than one county, except members of congress and members of the general assembly, shall file their nomination papers with the county clerk of the county not less than *one hundred twenty (120)* [~~ninety (90)~~] days before the day fixed by law for holding the primary election. Candidates for offices to be voted for by the electors of more than one (1) county, and for members of congress and members of the general assembly, shall file their nomination papers with the secretary of state not less than *one hundred twenty (120)* [~~ninety (90)~~] days before the day fixed by law for holding the primary election. All nomination papers shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(2) The secretary of state or the county clerk shall examine the notification and declaration form of

each candidate to determine whether it is regular on its face. The proper officer shall notify the candidate by regular mail within twenty-four (24) hours of filing that his papers have been certified. If there is an error the officer shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 2. KRS 118.365 is amended to read as follows:

(1) Certificates of nomination issued by the state board of elections shall be filed by that board with the secretary of state immediately. Such certificates issued by the county board of elections shall be filed by that board with the county clerk immediately.

(2) Petitions of nomination for candidates for city offices, for candidates for members of boards of education, and for candidates for supervisors of soil and water conservation districts shall be filed with the county clerk not less than sixty-eight (68) days before the day fixed by law for the holding of regular elections.

(3) Statements of candidates for an office, the nomination to which is to be made by a convention pursuant to KRS 118.325(1) and (2), except for the office of electors of president and vice president of the United States, shall file such statements as are required by KRS 118.325(3), with the official designated in KRS 118.165 with whom notification and declaration are filed for the office, not less than the date provided by the election laws generally for filing notification and declaration forms.

(4) Certificates of nomination made by the governing authority of a political party within the meaning of KRS 118.015 or a political organization not constituting a political party within the meaning of KRS 118.015 but which cast two percent (2%) of the vote of the state at the last preceding election for presidential electors to fill vacancies in office, as provided in KRS 118.115 and 118.325, shall be filed as required with the secretary of state or county clerk not less than sixty-eight (68) days before the day fixed by law for the election of the person in nomination.

(5) Petitions of independent candidates to fill a vacancy which has occurred less than the number of days prior to a primary as provided in KRS 118.375 and prior to three (3) months before the general election, shall be filed by such petitions not later than sixty-eight (68) days prior to the general election.

(6) Except as otherwise provided in this section, petitions of nomination shall be filed as required with the secretary of state or county clerk not less than *one hundred twenty (120)* [~~ninety (90)~~] days before the day fixed by law for the holding of primary elections. Certificates of nomination shall be filed with the secretary of state or county clerk, as required by law, not less than sixty-eight (68) days before the day fixed by law for the holding of general elections.

(7) Petitions and certificates of nomination for electors of president and vice president of the United States shall be filed with the secretary of state not less than sixty-eight (68) days prior to the date fixed by law for the election of such electors.

(8) Petitions of nomination, petitions for candidacy, statements, and certificates of nomination shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

Section 3. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100 and 118A.110, no person's name shall appear on a ballot label or special ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the secretary of state not less than *one hundred twenty (120)* [~~ninety (90)~~] days before the day fixed by law for holding the primary election. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which such papers are permitted to be filed.

(3) The petition for nomination shall state the name and residence of the candidate and shall describe, by district or circuit, and by numbered division thereof if divisions exist, the office for which he seeks nomination. It shall be signed by him and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be in the form prescribed by the state board of elections. Titles, ranks or spurious phrases shall not be accepted on the petition and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials and contractions of given names may be acceptable as the candidate's name.

(4) The secretary of state shall examine the petition of each candidate to determine whether it is regular

on its face. If there is an error, the secretary of state shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the secretary of state at 2:00 p.m., standard time, eighty-eight (88) days before the primary election.

(5) Not less than eighty (80) days before the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the secretary of state shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labelled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, the secretary of state shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

HB 932, AN ACT relating to the provision of information and data.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

Any public officer or official, agency, or organization of state or local government required or requested to furnish information or data to the General Assembly or a committee thereof shall do so without fees or charges of any kind for the information or data or any cost associated with its gathering, processing, or production.

SECTION 2. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

Any public officer or official, agency, or organization of state or local government required or requested to furnish information or data to the Legislative Research Commission, a subcommittee, task force, or other body associated therewith shall do so without any fees or charges of any kind for the information or data or any cost associated with its gathering, processing, or production.

HB 973, AN ACT relating to legislative facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

The legislative research commission shall establish a subcommittee of the commission to study the future needs of the general assembly concerning legislative facilities. The subcommittee shall be composed of all of the members of the Legislative Research Commission.

The Committee Substitute to **HB 973** is as follows:

HB 973, AN ACT relating to legislative facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 56.463 is amended to read as follows:

The cabinet shall have the power and duty:

(1) To determine the comparative needs and demands of the various state agencies for acquiring real estate and for building projects;

(2) To purchase or otherwise acquire all real property determined to be needed for state use and upon the approval of the secretary of the finance and administration cabinet as to the determination of need and as to the action of purchase or other acquisition, except as provided in KRS Chapters 175, 176, 177, and 180. All such acquisitions of real property or interests therein shall be made in accordance with KRS 45.360;

(3) To sell or otherwise dispose of all property, including any interest in real property, of the state that is not needed or has become unsuitable for public use or would be more suitable consistent with the public interest for some other use as determined by the secretary of the finance and administration cabinet. All such sales or other disposition shall be made in accordance with KRS 45.360;

(4) (a) To control the use of any real property owned or otherwise held by the Commonwealth, or any state agency, and to determine for what periods of time and for what purposes any state agency may use the same, including the agency for whose use it was initially acquired or improved, and to determine what appropriate uses shall be made of such real property during periods that the cabinet finds the same is not required for the purposes of any partistate agency. The cabinet shall allocate to the general assembly and the legislative research commission the amount of space within the new state capitol annex, *currently assigned to the legislative branch on the east end of the building in the basement and on the first floor totalling* [~~including but not limited to space in the east basement portion adjacent to the parking garage, not exceeding a total of~~] forty-seven thousand and seventy-two (47,072) square feet[~~, as the general assembly or legislative research commission may request. The forty-seven thousand and seventy-two (47,072) square feet shall consist of space now occupied by the general assembly and the legislative research commission~~]; *approximately twenty-four thousand four hundred fifty-two (24,452) square feet on the second floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances and restrooms; approximately twenty-three thousand nine hundred forty (23,940) square feet on the third floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances and restrooms; approximately twenty-two thousand and fifty-six (22,056) square feet on the fourth floor from an imaginary line running north and south down the center of the center wing hallway of the building and all space to the east of this line, excluding mechanical areas, public entrances and restrooms. The general assembly and the legislative research commission shall vacate and assign to the executive branch approximately thirteen thousand nine hundred sixty-two (13,962) square feet of space in the capitol and the capitol annex. The thirteen thousand nine hundred sixty-two (13,962) square feet shall include approximately five thousand three hundred ten (5,310) square feet of space on the fourth (4th) floor of the capitol, as designated by the legislative research commission, approximately seven thousand one hundred sixteen (7,116) square feet of space in the capitol basement, as designated by the legislative research commission and approximately one thousand five hundred thirty-six (1,536) square feet of space in the basement of the capitol annex, as designated by the legislative research commission. The occupancy of the capitol annex and the vacating of the capitol by the general assembly shall be phased in with the capitol and capitol annex renovation project approved in the capital construction budget for the 1988-1990 biennium. The phase in shall be completed no later than June 30, 1993* [~~the approximately six hundred (600) square foot storage room known as Room B-2 located in the northeast section of the basement; the approximately eight hundred and fifty (850) square foot room known as the mail room located adjacent to the legislative offices in the southeast section of the basement; the approximately six thousand seven hundred (6,700) square foot space now occupied by the division of engineering located in the northeast section of the first floor and the approximately three thousand and seventy-two (3,072) square foot space now occupied by the division of contracting and administration and the auditor of public accounts in the south central section of the first floor~~]; and

(b) To determine the housing and furnishings needs of the various state agencies located in Frankfort and to establish and put into effect a permanent program for housing them. Subject to paragraph (a) of this subsection, the cabinet is also authorized and directed to allocate office space and furnishings in existing public buildings located in Frankfort, exclusive of the third and fourth floors of the new state capitol, according to the needs of the various agencies and when necessary to provide additional office space and furnishings in Frankfort under any building program the cabinet deems most advisable and economical for the state. The permanent housing program shall include provisions for housing the general assembly and its related agencies, including the legislative research commission, and its subcommittees, the executive offices, the Supreme Court and the clerk of the Supreme Court, the department of law and the law library, in the new state capitol, provided the general assembly and the legislative research commission shall have complete control and exclusive use of the third and fourth floors of the new state capitol and shall have exclusive use of the space in the new state capitol annex allocated to them under paragraph (a) of this subsection. If there be any additional space in the capitol, it shall be assigned to agencies whose activities are most closely related to the agencies directed to be located permanently in the capitol;

(5) To acquire, by condemnation in the manner provided in the Eminent Domain Act of Kentucky, any real estate necessary for use by the state or by any state agency, when the cabinet is unable to agree with the owner thereof on a price for such real estate;

(6) To lease any real property, or any interest in such real property, owned by the state or any agency thereof, in accordance with KRS 45.360;

(7) To provide for and adopt such plans and specifications as may be necessary, to advertise for and receive bids for any expenditures proposed to be made, to award contracts for the purpose authorized, to supervise construction and make such changes and revisions in plans and specifications or in construction as may become necessary, and generally to do any and all other things as may become necessary or expedient in order to effectively fulfill and carry out the purposes of this chapter, including the right to employ such clerks, engineers, statisticians, architects or other persons required to be employed in order to fulfill the functions of the Commonwealth relating to state property and buildings provided in KRS 56.450 to 56.550; and

(8) To adopt such rules and regulations as may be necessary to govern the acquisition, control, and disposition of the real property to which this section is applicable.

SB 11, AN ACT relating to preference points on state and city examinations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.005 is amended to read as follows:

As used in this chapter, unless the context indicates otherwise:

(1) "Appointing authority" means the agency head or any person whom he has authorized by law to designate to act on behalf of the agency with respect to employe appointments, position establishments, payroll documents, register requests, waiver requests, requests for certification or other position actions. Such designation shall be in writing and signed by both the agency head and his designee. Prior to the exercise of appointing authority, such designation shall be filed with the commissioner;

(2) "Base salary or wages," means the compensation to which an employe is entitled under the salary schedules adopted pursuant to the provisions of KRS 18A.030 and 18A.110. Base salary or wages shall be adjusted as provided under the provisions of KRS 18A.355 and 48.130;

(3) "Board" means the personnel board created by KRS 18A.045;

(4) "Career employe" shall mean a state employe with sixteen (16) or more years of permanent full-time state service, or the part-time employment equivalent of at least sixteen (16) years of full-time state service. The service may have been in the classified service, the unclassified service, or a combination thereof;

(5) "Certification" means the referral of the name of one (1) or more qualified prospective employes by the commissioner on request of an appointing officer for consideration in filling a position in the classified service;

(6) "Class" means a group of positions sufficiently similar as to duties performed, scope of discretion and responsibility, minimum requirements of training, experience, or skill, and such other characteristics that the same title, the same tests of fitness, and the same schedule of compensation have been or may be applied to each position in the group;

(7) "Classified service" includes all the employment subject to the terms of this chapter except for those positions expressly cited in KRS 18A.115; a "classified position" is a position in the classified service;

(8) "Commissioner" means the commissioner of the department of personnel as provided for in KRS 18A.015;

(9) "Demotion" means a change in the rank of an employe from a position in one (1) class to a position in another class having a lower minimum salary range or less discretion or responsibility;

(10) "Department" means the department of personnel provided for in KRS 18A.015 unless the context indicates otherwise;

(11) "Eligible" refers to a person who has made a passing score on any examination required under KRS 18A.005 to 18A.200 and who has qualified to be placed on a register;

(12) "Emergency employe" means an employe appointed without regard to the examination requirements of KRS 18A.005 to 18A.200 to any position by reason of a governmental emergency. An emergency appointment shall not exceed thirty (30) working days in duration and is nonrenewable;

(13) "Employe" means a person regularly appointed to a position in the state service for which he is compensated on a full-time or part-time basis;

(14) "Federally funded time-limited employe" means an employe appointed to a federally funded time-limited position and, except as provided in KRS 18A.115, may in all other respects be entitled to the benefits provided permanent, full-time regular employes as defined in this chapter;

(15) "Federally funded time-limited position" means a position created for the specific purpose of providing public service employment or one-time special or research project services for a limited period of time and shall not exceed the period of time for which that specific federal funding is provided;

(16) "Initial probation" means the period of service following initial appointment to any position under KRS 18A.005 to 18A.200 which requires special observation and evaluation of an employe's work and which must be passed successfully before status may be conferred as provided in KRS 18A.110 and by the provisions of this chapter. "Initial probation" does not include a probationary period served by a laid-off employe who accepts a bona fide written offer of appointment;

(17) "Penalization" shall include, but not be limited to, demotion, dismissal, suspension, fines and other disciplinary actions, involuntary transfers; salary adjustments; any action that diminishes the level, rank, discretion or responsibility of an employe without proper cause, including a reclassification or reallocation; and the abridgement or denial of other rights granted to state employes;

(18) "Position" means an office or employment in an agency (whether part-time, full-time, permanent, temporary, seasonal, federally funded time-limited, or emergency, occupied or vacant) involving duties requiring the services of one (1) person;

(19) "Promotion" means a change of rank of an employe from a position in one (1) class to a position in another class having a higher minimum salary or carrying a greater scope of discretion or responsibility;

(20) "Promotional probation" means the six (6) month period of service following the promotion of an employe with status which must be successfully completed in order for the employe to retain the position to which he has been promoted;

(21) "Provisional employe" means any employe appointed on a temporary or interim basis to a permanent position under KRS 18A.005 to 18A.200 without examination, such appointment being made necessary by

the absence of a register for the position involved and by the time limitations and prohibition on renewal as defined in KRS 18A.110(5)(h);

(22) "Reallocation" means the correction of the classification of an existing position by placement of the position into the classification that is appropriate for the duties the employe has been and shall continue to perform;

(23) "Reclassification" shall mean the change in the classification of an employe when a material and permanent change in the duties or responsibilities of that employe occurs;

(24) "Reemployment" shall mean the rehiring of an employe with status who has been laid off;

(25) "Reemployment register" means the separate list of names of persons who have been separated from state service by reason of layoff. Reemployment registers shall be used as provided by the provisions of KRS 18A.110, 18A.130, and 18A.135;

(26) "Register" means any official list of eligibles for a particular class and, except as provided in this chapter, placed in rank order according to the examination scores maintained for use in making original appointments or promotions to positions in the classified service;

(27) "Reinstatement" shall mean the restoration of an employe who has resigned in good standing, or who has been ordered reinstated by the board or a court to a position in his former class, or to a position of like status and pay;

(28) "Seasonal employe" means an employe appointed to a seasonal position;

(29) "Seasonal position" means a position that is temporary, coincides with a particular season or seasons of the year, and does not exceed eleven (11) months duration;

(30) "Seniority" means the total number of months of state service;

(31) "Status" means the acquisition of tenure with all rights and privileges granted by the provisions of this chapter after satisfactory completion of the initial probationary period by an employe in the classified service;

(32) "Temporary employe" means an employe appointed to a temporary position;

(33) "Temporary position" means a position that is created for a definite period of time not to exceed six (6) months and not renewable;

(34) "Transfer" means a movement of any employe from one (1) position to another of the same grade having the same salary ranges, the same level of responsibility within the classified service and the same salary received immediately prior to transfer[~~;~~

~~(35) A "war veteran" is a person who served on active duty in the United States armed forces during any war, or in a campaign or expedition for which a campaign badge or service medal has been authorized, or between December 7, 1941, and July 1, 1955 or between August 6, 1964 and May 7, 1975~~].

Section 2. KRS 18A.150 is amended to read as follows:

(1) *Any honorably discharged soldier, sailor, marine, member of the air force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, shall have five (5) points added to his entrance examination score for classified positions. Any Kentucky national guard member, or a former member of the Kentucky national guard who has been honorably discharged, shall be entitled to the same number of points* [~~An honorably discharged war veteran, a member of the Kentucky national guard, or a former member of the Kentucky national guard who has been honorably discharged shall have five (5) points added to his entrance examination score for classified positions~~].

(2) Any honorably discharged *soldier, sailor, marine, member of the air force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment,* [~~war veteran~~] whom the veterans administration or any branch of the armed forces of the United States determines has service-connected disabilities, shall have ten (10) points added to his entrance examination score for a classified position.

(3) The spouse of an honorably discharged *soldier, sailor, marine, member of the air force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment* [~~war veteran~~] who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall have ten (10) preference points added to his entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled war veteran recovers.

(4) Until remarriage, the surviving spouse of an honorably *discharged soldier, sailor, marine, member of the air force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment,* [~~separated war veteran~~] shall have ten (10) preference points added to his entrance examination score for a classified position. This includes the surviving spouse of *any military personnel* [~~a war veteran~~] who died while in the armed forces, unless circumstances surrounding the death would have been cause for other than honorable *discharge* separation.

(5) A parent totally or partially dependent on a *soldier, sailor, marine, member of the air force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, and* [~~war veteran~~] who lost his life under honorable conditions while on active duty or active duty for training purposes, or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to his examination score for a classified position.

(6) *The preference points granted by subsections (1) through (5) of this section shall be* [~~War veterans and their spouses, widows, widowers, and parents eligible for preference points shall have them~~] added to [~~their~~] entrance examination scores for classified positions only if the score is determined by the commissioner to be a passing score and after verification of the required service.

Section 3. KRS 90.320 is amended to read as follows:

(1) The civil service commission shall prescribe and propound such examinations as are proper, commensurate with vacant positions within the various departments of the city, according to classification prescribed by ordinance, shall set such times and places for holding examinations as may be proper and shall give public notice of examinations by publication pursuant to KRS chapter 424.

(2) The civil service commission shall, as soon after examinations as is practicable, certify to the mayor or other appointing authority a list of the applicants so examined, with the one (1) having the highest average ranked first and all others ranked numerically according to the result of the examination.

(3) *Any honorably discharged soldier, sailor, marine, member of the air force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, and who is an applicant for any municipal civil service position, and a registered voter of that municipality, shall be entitled to a five percent (5%) increase on his examination score. Any red cross nurse who served during the period of hostilities between the United States and the Central Powers in World War I and between the United States and Japan and Germany in World War II, and who is a registered voter of that municipality, shall be entitled to the same percentages. Such percentages shall be added to examination scores only if the score is determined by the civil service commission to be a passing score and after verification of the required service* [~~Every soldier, sailor, marine, members of the air forces, army nurses corps and members of other branches of the military services and Red Cross nurses who served during the period of hostilities between the United States and the Central Powers in World War I and between the United States and Japan and Germany in World War II, who has been honorably discharged, is a resident voter of the city and who is an applicant for any position of civil service of that city shall be entitled to five per cent (5%) increase on his examination mark~~].

(4) The civil service commission of cities of the second class shall maintain an eligible list of not less than three (3) for each position to be filled.

(5) The appointing authority may designate certain civil service positions and prescribe that for such

positions the examinations shall first be given exclusively to current employes; Provided, however, That if less than three (3) employes with a minimum of two (2) years seniority achieve a passing grade, the examination shall be held in accordance with subsection (1) of this section.

SB 23, AN ACT relating to finance and administration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.360 is amended to read as follows:

(1) The finance and administration cabinet shall purchase, or shall delegate and control the purchase of, the combined requirements of all spending agencies of the state including, but not limited to, interests in real property, contractual services, rentals of all types, supplies, materials, equipment, and services, except that competitive bids may not be required:

(a) For contractual services where no competition exists, such as telephone service, electrical energy, and other public utility services;

(b) When in the judgment of the finance and administration cabinet food, clothing, equipment, supplies, or other materials to be used in laboratory and experimental studies can be purchased otherwise to the best advantage of the state; and instructional materials available from only one (1) source;

(c) Where rates are fixed by law or ordinance;

(d) For library books;

(e) For commercial items that are purchased for resale;

(f) For professional, technical, scientific, or artistic services (contracts exempted by this provision shall be reviewed and approved in accordance with KRS 45.710 to 45.720);

(g) For all other commodities, equipment and services which, in the reasonable discretion of the finance and administration cabinet, are available from only one (1) source; and

(h) Interests in real property.

(2) Nothing in this section shall deprive the finance and administration cabinet from negotiating with vendors who maintain a general service administration price agreement with the United States of America or any agency thereof, provided, however, that no contract executed under this provision shall authorize a price higher than is contained in the contract between the general service administration and the vendor affected.

(3) The finance and administration cabinet shall have supervision over all purchases by the various spending agencies, except as otherwise provided by law, and shall *promulgate administrative* [~~prescribe rules and~~] regulations to govern purchasing by or for all such agencies, subject to the approval of the secretary of the finance and administration cabinet, and shall publish a manual of procedures *which shall be incorporated by reference as an administrative regulation pursuant to KRS Chapter 13A* to be distributed to agencies and to be revised upon issuance of amendments to such procedures. No purchase or contract shall be binding on the state or any agency thereof unless approved by the cabinet or made under general regulations which the finance and administration cabinet may prescribe.

(4) The finance and administration cabinet shall adopt regulations to require agencies to take and maintain inventories of plant property, buildings, structures, other fixed assets, and equipment. The finance and administration cabinet shall conduct periodic physical audits of inventories.

(5) The finance and administration cabinet shall require all agencies to furnish an estimate of specific needs for supplies, materials, and equipment to be purchased by competitive bidding for the purpose of permitting scheduling of purchasing in large volume. It shall establish and enforce schedules for purchasing supplies, materials, and equipment. In addition, all agencies shall submit to the finance and administration

cabinet prior to the beginning of each fiscal year an estimate of all needs for supplies, materials, and equipment during that year which will have to be acquired through competitive bidding.

(6) The finance and administration cabinet shall have power, with the approval of the secretary of the finance and administration cabinet, to transfer between departments, to salvage, to exchange, and to condemn supplies, equipment, and real property.

(7) The finance and administration cabinet shall sell or otherwise dispose of all property (including any interest in real property) of the state which is not needed or has become unsuitable for public use, or would be more suitable consistent with the public interest for some other use, as determined by the secretary of the finance and administration cabinet. The determination of the secretary of the finance and administration cabinet shall be set forth in an order, and shall be reached only after review of a written request by the agency desiring to dispose of the property. Such request shall describe the property and state the reasons why the agency believes disposal should be effected. All instruments required by law to be recorded which convey any interest in any such real property so disposed of shall be executed and signed by the secretary of the finance and administration cabinet and approved by the governor. Unless the secretary of the finance and administration cabinet deems it in the best interest of the state to proceed otherwise, all such property (including any interests in real property) shall be sold either by invitation of sealed bids or by public auction, provided however that the selling price of any interest in real property shall not be less than the appraised value thereof as determined by the department, or the department of transportation for such requirements of that department.

(8) Except as provided in KRS Chapters 175, 176, 177 and 180, and subject to the provisions of KRS Chapter 45A, the finance and administration cabinet shall purchase or otherwise acquire all real property determined to be needed for state use, upon the approval of the secretary of the finance and administration cabinet as to the determination of need and as to the action of purchase or other acquisition, provided that the amount paid shall not exceed the appraised value as determined by the department, or the department of transportation (for such requirements of that department), or value set by eminent domain procedure.

(9) Real property or any interest therein may, subject to the provisions of KRS Chapter 45A, be purchased, leased, or otherwise acquired from any officer or employe of any agency of the state upon a finding by the finance and administration cabinet, based upon a written application by the head of the agency requesting the purchase, and approved by the secretary of the finance and administration cabinet and the governor, that the employe has not either himself or through any other person influenced or attempted to influence either the agency requesting the purchase of the property or the finance and administration cabinet in connection with such acquisition. In any case in which such an acquisition is consummated, the said request and finding shall be recorded and kept by the secretary of state along with the other documents recorded pursuant to the provisions of KRS Chapter 56.

(10) The finance and administration cabinet shall maintain records of all purchases and sales made under its authority and shall make periodic summary reports of all transactions to the secretary of the finance and administration cabinet, the governor, and the general assembly. The finance and administration cabinet shall also report trends in costs and prices, including savings realized through improved practices, to the above authorities.

(11) For capital construction projects, subject to the provisions of KRS Chapter 45A, the bidding may be on a total design-bid basis; a package system commonly referred to as "turnkey"; phase bidding commonly referred to as "fast track"; or construction management, whichever in the judgment of the secretary of the finance and administration cabinet offers the lowest real cost to the taxpayer. Bids shall be reviewed by the engineering staff to assure quality and value, and compliance with bid procedures. All specifications shall be written to promote competition.

(12) The finance and administration cabinet shall attempt in every practicable way to insure the state's supplying its real needs at the lowest possible cost.

(13) The finance and administration cabinet shall have control and supervision over all purchases of energy consuming equipment, supplies and related equipment purchased or acquired by any agency of the state as provided in KRS 45.360 to 45.990, and shall designate by regulation the manner in which an energy consuming item will be purchased so as to promote energy conservation and acquisition of energy efficient products. Major energy components shall be amortized on a seven (7) to ten (10) years recovery basis and shall take into consideration the projected cost of fuel. The energy cabinet shall conduct thorough economic feasibility analyses on any major energy using component of at least three million (3,000,000) BTU's per

hour heat input and must issue a certificate of economic feasibility prior to the finance and administration cabinet's purchasing or retrofitting any such component that utilizes any fuel other than coal. Such economic feasibility analysis shall consist of life-cycle cost comparisons of a component that would utilize coal and one(s) that would utilize any fuel other than coal. For such analyses, the finance and administration cabinet shall provide detailed estimates of equipment purchase price, installation cost, annual operation and maintenance costs, and usage patterns of energy-using components.

SB 24, AN ACT relating to properties leased by the state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY 200 KAR 6:035) IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, unless the context requires otherwise:

(a) "Cabinet" shall mean the finance and administration cabinet;

(b) "Division of real properties" shall mean the division of real properties of the finance and administration cabinet;

(c) "Secretary" shall mean the secretary of the finance and administration cabinet.

(2) (a) A state agency shall, except as enumerated in subsection (3) of this section, submit its space request to the division of real properties at least ninety (90) calendar days before the space requested will be required by the agency.

(b) Upon review and approval of the agency space request by the finance and administration cabinet, advertisements shall be placed soliciting written proposals.

(c) Lease proposals shall be submitted at or prior to the time and place designated in the advertisement for proposals. All proposals shall be opened and publicly read.

(d) The division of real properties shall notify in writing all persons submitting a lease proposal of the selected property intended to be leased. Notice of award of a lease shall not constitute a contract binding against the Commonwealth.

(e) Whenever it is anticipated that a lease may be negotiated containing deviations or variations from the terms and conditions of the state standard lease form prescribed by the division of real properties, any such deviations or variations shall be noted in the advertisement. If any person submitting a proposal in response to an advertisement proposes terms and conditions of lease different from those contained in the state standard lease form which are determined to be advantageous to, and in the Commonwealth's best interest to accept, but no mention has been made in the advertisement of the acceptability thereof, then all other persons submitting proposals on the basis of such advertisement shall be advised in writing of such terms and conditions and allowed to conform their proposals in accordance therewith for purposes of establishing more competitive positions upon which lease negotiations may be based.

(3) (a) Except when another lease term is approved by the secretary , the terms of all leases made under this section shall, as provided in the state standard lease form , provide for an initial lease term beginning on a date certain and ending on or before the 30th day of June in each year, subject to automatic extension for additional periods of twelve (12) months each, not to exceed five (5) such extension periods, provided that the Commonwealth, within the time specified in the lease (thirty (30), sixty (60) or ninety (90) days) does not give written notice that the lease will not be extended beyond the end of the then current term. Subject to the agreement of the lessor, an expired lease may be renewed upon the same terms and conditions without newspaper advertisement for space.

(b) The Commonwealth shall reserve the right to cancel a lease upon written notice within the time specified in the lease agreement (thirty (30), sixty (60) or ninety (90) days).

(4) Newspaper advertisements soliciting written proposals for the lease of space by the Commonwealth shall not be required if space suitable to the needs of agencies for whose use space is sought is determined to be available for lease in a building owned by a political subdivision or municipality, or the space is required as the result of a bona fide emergency.

(5) (a) After all requirements have been met for selecting property to be leased, the division of real properties shall determine the amount of rent to be paid for leased property by negotiating with the property owner or owner's authorized representative. In such negotiation the secretary or his designee shall seek to obtain the lowest rate possible.

(b) Except as stated in subsection (6) of this section, when part but not all of a building is to be leased, the rent shall be calculated by multiplying the agreed per square foot rental charge by the number of square feet for all space in the building to be exclusively occupied by the state agency.

(c) Except as stated in subsection (6) of this section, when the purpose of a lease is to provide one (1) or more state agencies with total occupancy of an entire leased building, the rent shall be calculated by multiplying the agreed per square foot rental rate by the number of square feet of floor space in the building as determined by its exterior horizontal dimensions, times the number of floors.

(6) (a) An agency may request that the cabinet provide additional space in a building in which space is already leased by the state. If the cabinet determines there is need for more space, the current lease may be amended, with agreement of the lessor, to increase the leased space. However, the rental rate paid for such additional space shall not exceed the square foot rental rate fixed by the original lease. A lease may also be modified with agreement of the lessor to decrease the number of square feet leased and the rent shall be appropriately reduced.

(b) The cabinet may amend a lease of private property to provide for an increase in the rental rate when the lessor has made improvements in the leased property at the request of and to meet the needs of the state agency occupying the premises, provided the improvements and rent increase have the prior approval of the secretary . Such rent increase shall be, and shall be identified as being, for the purpose of amortizing in full or in part the cost incurred by the owner at the state's request. Any increase for this purpose shall not extend beyond the period required to accomplish the agreed amortization.

(c) No improvement of a permanent nature shall be made at direct state expense in privately leased property. No improvements of a permanent nature may be made at direct state expense in publicly-owned leased property unless the Commonwealth shall have the leasehold interest in such property of a duration sufficient to permit amortization of the cost of the improvement over the life of the lease.

(d) The division of real properties shall maintain a register of all proposed lease modifications which if approved, will result in the payment of a square foot rate for the leased space which is greater than the square foot rate contained in the original lease. All such proposed modifications shall be filed and kept in the register for public inspection and comment for thirty (30) calendar days. Comments received from the public during such period shall be considered before the lease modification is executed by the parties and becomes binding against the Commonwealth. After receiving such comments should the secretary determine that the proposed modifications are not in the interest of the Commonwealth, he may then require the agency to continue operation in its present space or cancel the lease and seek more suitable space. The lessor under any lease proposed to be modified as contemplated therein shall be advised of the requirements of this subsection and cautioned that the Commonwealth shall have no liability for any action undertaken by the lessor in anticipation of, but prior to execution of the modifications of the lease.

(7) (a) Any modification to an existing lease that is less than fifty thousand dollars ($50,000) shall be reported to the capital construction and equipment purchase oversight committee within thirty (30) days after execution. The report shall consist of the terms of the lease before and after modification, the reason for the modification, and the name of the lessor.

(b) Any modification to an existing lease that is fifty thousand dollars ($50,000) or more shall be reported to the capital construction and equipment purchase oversight committee before it is executed. The report shall consist of the terms of the lease before and after the modification, the reason for the modification, and the name of the lessor. If an emergency as defined in KRS 56.804 exists, the modification shall be reported within thirty (30) days of the execution.

(8) (a) When the owner of real property selected to be leased to the Commonwealth is a corporation or a partnership, a list of the names of all persons owning five percent (5%) or more of the shares in such corporation, and the names of all partners, including silent and limited partners, shall be furnished to the division of real properties prior to execution of the lease agreement. The division of real properties shall maintain such lists in the file pertaining to the particular lease or leases of property owned by such corporation or partnership and make them available for public inspection.

(b) A new disclosure of ownership statement shall be furnished to the cabinet upon any change or transfer of ownership involving persons owning five percent (5%) or more of the shares in the partnership or corporation, including silent or limited partners.

(9) (a) When there is a change in ownership in the leased premises, the new owner shall furnish the division of real properties a copy of the deed or other instrument of conveyance by which the new owner acquired title to the property or the right to payment under the lease and such other evidence in support of his claim to the payment of rent under the lease as the division of real properties may request. The state shall change its records and redirect its rent payments accordingly.

(b) When the agency occupying leased premises or the cabinet receives information that a change in ownership has occurred, payments of rent shall be suspended until the division of real properties learns the ownership of the premises and determines who is entitled to the rent.

(10) Records relating to leases are a matter of public record, except as otherwise provided by law.

SB 29, AN ACT relating to state depository banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 900 (FORMERLY 200 KAR 14:060) IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this Act:

(a) "Commission" means the state investment commission; and

(b) "OIDM" means the office for investment and debt management.

(2) The purpose of this section is to provide a standard procedure by which the commission will assign priorities to public depositories to receive time deposits, as required by KRS 42.520. Priority shall be based on their demonstrated effectiveness in serving the convenience and economic development need of the communities in which they are chartered to do business. This section does not affect the process by which bank transaction services are contracted, which is described in KRS 45A.475.

(3) The commission shall advise all commercial banks chartered in Kentucky or by the United States with their main office in Kentucky, that wish to be considered as a depository for state certificates of deposit, or that wish to remain a depository for state certificates of deposit, that they must submit a copy of their quarterly report of condition, including all accompanying schedules, to the commission. A photostatic copy of this report and schedules, as prepared for the federal deposit insurance corporation, the comptroller of the currency, or the appropriate federal reserve bank shall be sufficient to meet this reporting requirement.

(4) The formula for determining the effectiveness of depositories in serving the convenience and economic development needs of their communities shall be determined by the commission at its open meeting from the information available in the quarterly report of condition .

(5) Any bank not submitting its report and schedules in a timely manner shall not be considered eligible for the receipt of new funds or renewal of existing instruments until the most current report and schedules are submitted by the bank and accepted by the commission. Reports shall be submitted to the OIDM no later than forty-five (45) days following the close of each calendar quarter.

(6) Any bank shall have the opportunity to appeal the results of the prioritization process to the state investment

commission.

SB 163. AN ACT relating to affirmative action.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 18A IS CREATED TO READ AS FOLLOWS:

(1) To ensure equal employment opportunity for all Kentuckians regardless of race, color, religion, national origin, handicap, sex, or age, the affirmative action plan dated July 1, 1984, confirmed as part of executive order 84-549 continued in force by executive order 88-100, and incorporated herein by reference, shall be the official affirmative action plan for Kentucky state government. Copies of the plan, as well as the plans developed by individual agencies pursuant to the state plan, shall be maintained on file and made available for inspection in the office of the commissioner of personnel.

(2) Every program cabinet, department, and agency of state government shall comply with the provisions of the affirmative action plan.

(3) Equal employment opportunities shall be an integral part of each cabinet, department, and agency program, and any program evaluation shall include an assessment of equal opportunity performance.

(4) The commissioner of personnel shall be responsible for the implementation of the plan. In fulfilling his duties, he shall:

(a) Require all cabinets, departments, and agencies of state government to develop programs consistent with the plan;

(b) Provide any technical assistance he may deem appropriate to accomplish the purposes of the plan;

(c) Provide, through the department of personnel, an annual analysis to ensure that persons protected by anti-discrimination laws are not adversely affected by examination and selection procedures;

(d) Provide for validation of examination procedures;

(e) Provide for procedures to monitor appointments and salary adjustments to ensure that standards are uniformly applied so as to prevent salary disparity;

(f) Report to the governor semiannually on actions taken pursuant to the plan; and

(g) Review the plan on an annual basis and recommend necessary changes in consultation with the appropriate agencies.

(5) The commissioner of personnel may also:

(a) Implement programs to ensure that reasonable accommodations exist for handicapped persons to allow them better access to all employment opportunities in state government; and

(b) Appoint an affirmative action advisory committee to assist him in implementation of the affirmative action plan.

SB 174. AN ACT relating to the classified service and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.032 is amended to read as follows:

(1) Except as provided by the provisions of this chapter, the commissioner may refuse to examine an

applicant; or, after examination, may disqualify an applicant, remove his name from a register, refuse to certify any eligible on a register, or may consult with the appointing authority in taking steps to remove such person already appointed if:

(a) It is found that he does not meet any one (1) of the preliminary requirements established for the examination for the class of position;

(b) He is unable to perform the duties of the class;

(c) He has made a false statement of material fact in his application;

(d) He has used or attempted to use political pressure or bribery to secure an advantage in the examination;

(e) He has directly or indirectly obtained information regarding the examination to which, as an applicant, he was not entitled;

(f) He has failed to submit his application correctly or within the prescribed time limits;

(g) He has taken part in the compilation, administration, or correction of the examination for which he is an applicant;

(h) He has previously been dismissed from a position in the state service for cause or has resigned while charges for dismissal for cause of which he had knowledge were pending;

(i) He has been convicted of a felony within the preceding five (5) years and his civil rights have not been restored or he has not been pardoned by the governor;

(j) He has been convicted of a job related misdemeanor, except that convictions for violations of traffic regulations shall not constitute grounds for disqualification; or

(k) He has otherwise willfully violated the provisions of this chapter.

(2) An eligible may be removed from a register:

(a) If the eligible cannot be located by postal authorities at the last address provided by the eligible;

(b) If the eligible responds in writing that he no longer desires consideration for position in that class;

(c) If the eligible declines an offer of probationary appointment to the class for which the register was established;

(d) If it is shown that the eligible is not qualified or is unsuitable for appointment to the class for which the register is established;

(e) If the eligible fails to reply within a period of ten (10) calendar days of the receipt of the written request of the appointing authority for an interview, or fails to appear for an interview which he has scheduled with the appointing authority without good cause;

(f) If the eligible accepts an appointment and fails to present himself for duty at the time and place agreed to without giving reasons for the delay satisfactory to the appointing authority; or

(g) If the eligible states in writing that he is not available for appointment or does not wish to be considered for appointment.

(3) When an eligible notifies the department in writing that he is unavailable for employment or employment consideration, the department may remove the name of that eligible from the appropriate register without further notification to the person.

(4) When the department is notified in writing by an appointing authority that an eligible has accepted a bona fide offer of probationary appointment to any position, effective on a specified date, his name may be removed from the register for all classes for which the maximum salary is the same or less than that of the class to which he has been appointed.

[~~(5) In determining whether a state employe meets the minimum requirements for experience required for a job classification, the department shall consider only the experience gained during permanent full-time state employment.~~]

Section 2. Whereas all state employes, except those with permanent full-time appointments, are being penalized because the Department of Personnel is prohibited from considering their job experience, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 180. AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky employes retirement system created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers and employes of the general assembly and any other body, entity or instrumentality designated by executive order by the governor, shall be deemed to be a department notwithstanding whether said body, entity or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employe" means the members, officers and employes of the general assembly and every regular full-time appointed or elective officer or employe of a participating department, including the department of military affairs. The term shall not, however, include persons engaged as independent contractors, seasonal, emergency, temporary and part-time workers. In case of any doubt, the board shall determine if a person is an employe within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of such department having the power to appoint or select an employe in such department, including the senate and the house of representatives, or any other entity, the employes of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employe who is included in the membership of the system or any former employe whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined herein;

(10) "Current service" means the number of years and months of employment as an employe, on and after July 1, 1956, (except that for members, officers and employes of the general assembly this date shall be January 1, 1960) for which creditable compensation is paid and employe contributions deducted except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer and employe of the general assembly shall be credited with a month of current service for each month he occupies such position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employe, prior to July 1, 1956, for which creditable compensation was paid; except that, for members, officers and employes of the general assembly this date shall be January 1, 1960. An employe shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer and employe of the general assembly shall be credited with a month of prior service for each month he occupied such position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), together with interest credited on such amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, *tips to the extent such tips are reported for income tax purposes* and fees paid to the employe as a result of services performed for the employer, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except that for members of the general assembly it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers and employes of the general assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the general assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). Said five (5) years may be fractional and need not be consecutive. In the event the number of months of service credit during such five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employe were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employe contributions picked up after August 1, 1982 pursuant to KRS 61.560(4), except for members of the general assembly the "final rate of pay" shall be the creditable compensation. Such rate shall be certified to the board by the employer and the following equivalents shall be used to convert said rate to an annual rate; nineteen hundred fifty (1,950) hours, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of such actuarial tables as are from time to time adopted by the board except in cases of disability retirement the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member, provided however, that no disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1, through the following June 30;

(20) "Officers and employes of the general assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the general assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions" as used in subsection (5) of this section shall mean all positions as set forth in KRS Chapter 18A as provisional full-time, probationary full-time and permanent full-time, all positions of local health departments meeting the definitions as set forth in KRS Chapter 18A of provisional full-time, probationary full-time and permanent full-time and all other positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months in any event;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed six (6) months in any event and not renewable; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than an annual or fiscal year average of one hundred (100) hours of work per month in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employe for current service obtained under KRS 61.552. Such amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(8) except the employe shall pay a single payment of fifty percent (50%) of the total cost of such service with no cost to the employer, and such payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board or agency (such as Outwood Hospital and School) which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly-held corporation or other similar organization, and therefore is no longer participating in the system; and

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system.

The Committee on Transportation reported **HB 13** with Committee Amendment attached thereto, **HB 32**, **HB 49**, **HB 620** with Committee Amendment attached thereto, and **SB 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 13, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application to the county clerk of the county of residence, a member of the United States army reserve or any retired member of the army reserve with twenty-five (25) years of service shall be issued a license plate in the same form and character as license plates authorized by law to be used on passenger cars. This license plate may be issued for a passenger car as set forth in KRS 186.050(1) or for a commercial vehicle as set forth in KRS 186.050(3)(a), but shall not authorize the operation of the vehicle at a gross laden weight in excess of six thousand (6,000) pounds. The plate shall bear the name "United States Army Reserve," a registration number, and the citizen soldier logo of the United States army reserve. The member or retired member may purchase only one (1) such registration annually and it must be for a vehicle in which he has total or partial ownership. Each application shall be accompanied by proof of current or previous service in the United States army reserve, and the payment of a one-time fee of twenty-five dollars ($25). License plates issued under this section shall expire on December 31. Annually, thereafter, upon application to the county clerk of the county of his residence, together with proof of current service or twenty-five (25) years of previous service in the United States army reserve, and without payment of a registration fee, the clerk shall issue a new plate or renewal decal as directed by the transportation cabinet. Application for registration under this section shall be made to the county clerk of the county of residence and shall be accompanied by the appropriate fees prescribed by this section.

(2) (a) Upon the sale or transfer of a vehicle licensed as authorized by subsection (1) of this section, the owner shall remove the army reserve license plate and return it and the certificate of title and registration

to the county clerk. The clerk shall issue a regular license plate, and certificate of title and registration, upon payment of an eleven dollar and fifty cent ($11.50) state fee and two dollar ($2.00) clerk's fee.

(b) Upon application of another vehicle which is authorized to bear such registration under subsection (1) of this section, owned by the same applicant to whom the army reserve license plate was originally issued, the county clerk shall issue another such license plate. There shall be no state fee for the plate and a two dollar ($2.00) clerk's fee.

(3) Upon termination of membership in the United States army reserve, except for those retired persons who remain eligible through the provisions of subsection (1) of this section, an applicant to whom an army reserve license plate was issued under this section shall, within thirty (30) days, return the army reserve plate to the county clerk of his county of residence.

(4) For the services performed in issuing army reserve license plates, and in annually issuing a renewal decal to be affixed to the army reserve license plate, the county clerk shall receive from each applicant a fee of two dollars ($2.00). A like fee shall be charged for issuance of a replacement license plate after the sale or transfer of the vehicle for which it was originally issued.

(5) The secretary of the transportation cabinet shall, in accordance with the provisions of KRS Chapter 13A, make such reasonable regulations and prescribe forms as may be necessary to carry out the purpose of this section.

The Committee Amendment No. 1 to **HB 13** is as follows:

Amend printed copy of **HB 13** on page 2, line 6, after the word "*and*" by deleting the word "*without*" and inserting the word "*with*" in lieu thereof.

On page 2, line 6, after the word "*a*" by inserting the word "*renewal*".

On page 2, line 7, after the word "*fee*" by inserting the words "*of eleven dollars and fifty cents ($11.50) and two dollar ($2) clerk's fee*"

HB 32, AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.043 is amended to read as follows:

(1) In enacting this section, it is the intention of the general assembly to recognize the special value of historic vehicles to the Commonwealth, and also to recognize that historic vehicles, because of their limited use and easily identifiable characteristics, do not require the same degree of regulation as other vehicles.

(2) As used in this section, unless the context otherwise requires, "Historic Vehicle" shall mean all motor vehicles *twenty-five (25)* [~~thirty (30)~~] years old or older, which are used primarily for exhibition in shows, parades, tours and other special uses, but not for general transportation.

(3) Historic vehicles shall be registered and licensed by the transportation cabinet. Such registration shall be in lieu of registration and license required by KRS 186.020 to 186.270.

(4) Upon payment of a fee of fifty dollars ($50) and an application in accordance with regulations issued by the transportation cabinet, the secretary of the transportation cabinet shall issue a certificate of registration and two (2) special license plates of a different color and design than the regular license plate, which, in the judgment of the secretary of the transportation cabinet, will best advertise, popularize and promote the Commonwealth of Kentucky. These plates, besides the word "Kentucky" shall have the words, "Historic Motor Vehicle" inscribed in a conspicuous manner and carry no year date. These plates shall have a serial number beginning with the number "100" and continue in a consecutive numerical sequence.

(5) The registration license and license plates of historic motor vehicles shall be valid without renewal as long as the vehicle is in existence. If the historic motor vehicle is sold, the registration and license shall

be assigned and transferred to the new owner on the records of the transportation cabinet upon receipt of an application in accordance with regulations issued by the cabinet and payment of a fee of two dollars ($2).

(6) The secretary of the cabinet may make such reasonable rules and regulations as he deems necessary to further the purpose of this section.

HB 49, AN ACT relating to motor vehicle licensing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) (a) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a) who is certified by the Kentucky chapter of the Pearl Harbor survivors association as being a survivor of the attack on Pearl Harbor shall be issued a five (5) year license plate, for either one (1) automobile or one (1) truck of one-half (1/2) or three-quarter (3/4) ton rating, upon application to the county clerk in the county of his residence and after payment of a twenty-five dollar ($25.00) state fee and a two dollar ($2.00) clerk's fee. Application shall be made on a form prescribed by the cabinet and shall be accompanied by written evidence from the Kentucky chapter of the Pearl Harbor survivors association that the applicant:

1. Was a member of the United States Armed Forces on December 7, 1941;

2. Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m. Hawaii time at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;

3. Was discharged honorably from the United States armed forces; and

4. Is certified by the Kentucky chapter of the Pearl Harbor survivors association.

(b) Annually, upon application to the county clerk of the county of his residence, together with proof that he is a Pearl Harbor survivor, and without payment of the registration fee provided in paragraph (a) of this subsection, the clerk shall issue a new plate, or a renewal decal, as directed by the cabinet. For services performed to renew such registration, the clerk shall receive a two dollar ($2.00) fee.

(2) Upon sale or transfer of a vehicle licensed as authorized under this section, the owner shall remove the Pearl Harbor survivor plate and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration upon payment of an eleven dollar and fifty cent ($11.50) state fee and a two dollar ($2.00) clerk's fee. When the Pearl Harbor plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a two dollar ($2.00) clerk's fee for use on any other vehicle owned by the same person who purchased the Pearl Harbor survivor plate for the current licensing period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(3) The cabinet shall issue the applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor.

(4) In the event a Pearl Harbor survivors plate is lost, stolen or mutilated, if the owner has not transferred a vehicle during the current period, he may obtain a regular plate free of charge. In the event a Pearl Harbor survivors plate deteriorates to the point where the inscriptions thereon are not discernible, the owner may obtain a replacement plate free of charge.

(5) License plates issued under this section shall expire on December 31.

HB 620, AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and U-Drive-Its, may in addition to registration under KRS 186.050(1) or (3)(a) obtain a collegiate license plate. Application for a collegiate license plate shall be taken by the county clerk and transmitted to the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Application shall include the payment of a twenty-five dollar ($25.00) registration fee and a five dollar ($5.00) surcharge which shall not be related to registration, but be paid to the general scholarship fund of the university whose name will be borne on said plate. The application and appropriate fee shall be immediately forwarded to the cabinet. Collegiate license plates issued under this section shall expire December 31 each year.

(2) Collegiate license plates shall be developed for each university in the state university system. License plates shall be the color and design approved by the cabinet as appropriate for each university in the state system. In addition to letters identifying the university, the name "Kentucky" and the expiration date of said plate, the cabinet may use any other combination of letters or numerals as needed in the design of said plate, or the application for a collegiate license plate may be combined with a request that such plate be a personalized plate.

(3) The cabinet shall send the collegiate plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk shall issue said collegiate plate and receive thirteen dollars and fifty cents ($13.50), of which two dollars ($2.00) shall constitute the clerk's fee and eleven dollars and fifty cents ($11.50) shall constitute the cabinet's fee.

(4) (a) Upon the sale or transfer of the motor vehicle bearing such collegiate license plate, the owner shall remove same and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration. This vehicle can then be transferred as provided by KRS Chapters 186 and 186A.

(b) When said collegiate plate has been presented to the clerk, he shall reissue same upon payment of a one dollar ($1.00) clerk's fee, for use on any other vehicle of the same classification and category owned by the same person purchasing the collegiate plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who shall forward the license to Frankfort.

(5) In the event a collegiate plate deteriorates, if he has not transferred the vehicle during the current license period, the owner may obtain a regular license plate free of charge.

(6) The secretary of transportation may make such administrative regulations as he deems necessary to further the purposes of this section.

The Committee Amendment No. 1 to **HB 620** is as follows:

Amend printed copy of **HB 620** on page 1, line 7, before the word "*collegiate*" by inserting the following "*five (5) year*";

On page 1, line 13, after the word "*fee*" by deleting the word "*and*" and inserting the following "*. In addition, for the use of the university name or logo*";

On page 1, line 13 after the "($5.00)" by inserting "*fee shall be collected and*";

On page 1, line 14, by deleting said line;

On page 1, line 15, by deleting the word "*be*"; and

On page 1, line 21, after the "*system*" by inserting the following "*, except that a minimum of eighteen hundred (1,800) requests for any university shall be received before the cabinet shall be required to print a collegiate license plate for that university*"

SB 14. AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Upon application to the county clerk of the county of his residence, a recipient of a purple heart medal shall be issued one (1) five (5) year license plate upon the payment of a twenty-five dollar ($25) license fee and a two dollar ($2) clerk's fee.

(2) The application shall be accompanied by written proof from the appropriate branch of the United States armed forces stating that the applicant is a recipient of a purple heart medal. Annually thereafter, upon application and after payment of an eleven dollar and fifty cent ($11.50) state fee and a two dollar ($2) clerk's fee the clerk shall issue a decal to renew the vehicle registration. The decal shall be affixed to the five (5) year registration plate.

(3) The plate shall bear the name "Purple Heart," a registration number and an appropriate logo to be determined by the transportation cabinet. The applicant may purchase only one (1) such registration plate annually, and it shall be for a vehicle in which he has total or partial ownership.

(4) Upon sale or transfer of a vehicle bearing a special plate, the owner shall remove the plate and return it, along with certificate of title and registration to the county clerk. When the special plate is presented to the clerk, he shall reissue it, for a two dollar ($2) clerk's fee for use on any other vehicle owned by the same person purchasing the purple heart plate for the current period. The license plate and decal on the other vehicle shall be turned in to the county clerk, who shall forward the plate to Frankfort.

(5) If the inscriptions on the purple heart plate become indiscernible within five (5) years from the date of issue, the owner may obtain a replacement plate free of charge.

(6) Purple heart registration under this section shall expire on December 31 each year.

(7) The secretary of the transportation cabinet shall make reasonable rules and regulations and prescribe necessary forms to further the purpose of this section.

The Committee on Business Organizations and Professions reported **HB 725**, **HB 806** with Committee Amendment attached thereto, **HB 908** with Committee Substitute attached thereto, **HB 955** and **HB 956** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 725, AN ACT relating to real estate brokers and salesmen.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.030 is amended to read as follows:

KRS 324.020 shall not apply to:

(1) Any person who as owner or lessor performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employes, with respect to the property so owned or leased, where such acts are performed in the regular course of, or as an incident to the management of such property and the investment in it;

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing or exchange of real estate;

(3) Any attorney at law who is performing his duties as attorney at law;

(4) Any receiver, trustee in bankruptcy, administrator or executor or any person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust or will, or the regular salaried employes thereof;

(5) A manager, marketing or maintenance *person for any real estate* [~~personnel of an apartment or condominium building~~], provided that the person:

(a) Is a regular employe of the owner;

(b) Is under the supervision of a principal broker; or

(c) Receives as his primary compensation the use of a rental unit.

Section 2. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate and apart from the individual or office account, in which all contract deposits shall be deposited without unreasonable delay. The escrow account or accounts shall be maintained within the state of Kentucky.

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the party making the deposit as a sum to be used toward the purchase price unless otherwise agreed in writing.

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction *except as permitted in subsection (6) of this section.*

(5) On licensure, the principal broker shall sign a permit giving the commission the permission to audit the escrow account or accounts.

(6) If a broker retains a contract deposit for a period exceeding ninety (90) days from the contract closing date, without securing performance, a written agreement, or a court order as required in subsection (4) of this section, the broker may release the contract deposit to one (1) or more parties to the contract by initiating a release process. The release process requires the broker to notify all parties by certified mail that the deposit will be distributed to the parties specified in the letter if the parties fail to perform, enter into a written mutual release, or initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit without penalty under this section. The broker's release of this deposit pursuant to this subsection solely releases the broker from liability under this chapter, as opposed to civil liability.

(7) All principal brokers who engage in property management and whose property management activities comprise twenty-five percent (25%) or more of a real estate firm's gross annual revenue shall maintain property management accounts separate and apart from all other accounts.

Section 3. KRS 324.141 is amended to read as follows:

(1) Upon payment of the established application fees, any person who holds a real estate license in good standing issued by any state or territory which has licensing and educational standards *deemed by the commission to be sufficient for minimal competence as a real estate licensee* [~~substantially equal to or greater than this state~~] may be licensed without examination if such state or territory extends similar reciprocity to licensees of this state.

(2) Every nonresident applicant shall file an irrevocable consent stating that legal actions may be commenced against the applicant in the proper court of any county of this state in which a cause of action may arise in which the plaintiff may reside, by the service of any process or pleading authorized by the laws of this state on the commission, the consent stipulating and agreeing that service of process or pleadings on the commission shall be taken and held in all courts to be as valid and binding as if service had been made upon the applicant in the state of Kentucky. Any process or pleadings served upon the commission, shall be by duplicate copies, one (1) of which shall be filed in the office of the commission and the other immediately forwarded by certified mail, return receipt requested to the main office of the applicant against

which the process or pleadings are directed.

Section 4. KRS 324.160 is amended to read as follows:

(1) The commission may suspend or revoke any license or levy fines not to exceed five hundred dollars ($500) or both and place any licensee on probation for a period of up to twelve (12) months or require successful completion of academic credit hours in real estate courses from an accredited or approved real estate school *or issue a formal reprimand* for any of the following causes:

(a) Obtaining a license through false or fraudulent representation.

(b) Making any substantial misrepresentation.

(c) Making any false promises of a character likely to influence, persuade or induce.

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise.

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts.

1. A real estate licensee shall not directly or indirectly buy property listed with him or her nor acquire an interest therein without making his or her true position clearly known in writing on the sales contract or offer to purchase.

2. Before a real estate licensee buys, sells or receives compensation for property in which the licensee owns an interest, the licensee shall disclose any interest in the property to all parties to the transaction.

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker at the time the listing was obtained. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate or profit on expenditures made for a client without the full knowledge and consent of the client.

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of that principal broker.

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into his or her possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment.

(i) Paying valuable consideration to any person for services performed in violation of this chapter.

(j) Entering a plea of guilty or nolo contendere to, or having been found guilty of, or having been convicted of, a felony[~~, in which fraud is an essential element,~~] and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following such conviction, suspending the imposition of sentence; or soliciting, selling or offering for sale real property under a scheme or program that constitutes a lottery or contest or deceptive practice, or offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate, or acting in the dual capacity of broker and undisclosed principal in the transaction.

(k) Guaranteeing, authorizing or permitting a person to guarantee that future profits will result from a resale of real property.

(l) Negotiating or attempting to negotiate the sale, exchange, lease or rental of real property with an owner or lessor knowing that the owner or lessor had a written outstanding contract granting exclusive agency in connection with the property to another real estate broker.

(m) Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other such action.

(n) Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document.

(o) Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which would indicate a violation of this chapter.

(p) Paying valuable consideration to any person for the name or names of potential sellers or buyers except as otherwise provided in KRS 324.020(3).

(q) Violating any of the provisions in this chapter of any lawful order, rule or regulation made or issued under the provisions of this chapter.

(r) Any other conduct that constitutes improper, fraudulent or dishonest dealing.

(s) Gross negligence.

(2) Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection (1)(r) of this section.

(3) No unlawful act or violation of any provision of this chapter by any associate of the principal broker may be cause for holding the principal broker primarily liable unless the broker has knowledge of such unlawful violation. The commission through means of a formal hearing may fine, suspend, or revoke the license of the principal broker for failing to exercise adequate supervision over the activities of licensed affiliates.

(4) The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing. A "net listing" shall be defined as a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the commission.

Section 5. KRS 324.200 is amended to read as follows:

(1) If the commission shall determine that any applicant is not entitled to receive a license, a license shall not be granted to such applicant, and if the commission shall determine that any licensee is guilty of a violation of any of the provisions of this chapter, the license shall be suspended or revoked. The commission, upon request of the applicant or licensee, shall furnish said applicant or licensee with a definite statement of its findings of facts and its reason or reasons for refusing to grant the license or for suspension of the rights of the licensee, or for the revocation of the license as the case may be. The findings of fact made by the commission acting within its powers shall, in the absence of fraud, be conclusive, but any person aggrieved shall have the right of an appeal from the findings of the commission as provided in KRS 324.210.

(2) Any disciplinary action imposed by the commission shall be automatically stayed during the pendency of an appeal to a circuit or appellate court, unless otherwise indicated in the final order of the commission.

Section 6. KRS 324.283 is amended to read as follows:

Each member of the commission shall receive as compensation *fifteen thousand dollars ($15,000)* [~~twelve thousand dollars ($12,000)~~] per annum and actual and necessary expenses incurred in the performance of duties pertaining to the office.

HB 806, AN ACT relating to racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.210 is amended to read as follows:

As used in KRS 230.215 to 230.360 unless the context requires otherwise:

(1) "Association" means any person licensed by the Kentucky state racing commission under KRS 230.300 and engaged in the conduct of a recognized thoroughbred race meeting;

(2) "Commission" means the Kentucky state racing commission;

(3) "Commissioner" means a member of the Kentucky state racing commission;

(4) *"Racing official" means association steward, assistant racing secretary, placing judge, patrol judge, clerk of the scales, timer, entry clerk, claims clerk, clerk of the course, paddock judge, jockey room custodian, outrider, starter, and assistant starter;*

(5) "Secretary" means the secretary of the Kentucky state racing commission;

(6)[~~(5)~~] "Thoroughbred race or thoroughbred racing" shall include that form of horse racing in which each horse participating in such race is a thoroughbred, (i.e., meeting the requirements of and registered with The Jockey Club of New York) and is mounted by a jockey;

t c2(7)[~~(6)~~] "Appaloosa race or Appaloosa racing" means that form of horse racing in which each horse participating in such a race is registered with the Appaloosa Horse Club of Moscow, Idaho, and is mounted by a jockey; and

(8)[~~(7)~~] "Thoroughbred race meeting" means horse racing run on the flat or over jumps at an association licensed and regulated by the state racing commission, and may include both thoroughbred racing and appaloosa racing.

Section 2. KRS 230.240 is amended to read as follows:

(1) In addition to the employes referred to in KRS 230.230, the commission may employ, at reasonable compensation, stewards, supervisors of mutuels, veterinarians, inspectors, accountants, guards and other employes deemed by the commission to be essential at or in connection with any thoroughbred race meeting and to the best interest of racing. The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by rule the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section shall have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate rules and regulations for effectively preventing the use of improper devices, the administration of drugs or stimulants or other improper acts for the purpose of affecting the speed or health of horses in races in which they are to participate, and in connection therewith the commission is authorized to acquire, operate and maintain, or to provide by contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under KRS 230.210 to 230.360 in such manner and in such proportions as the commission may by rule provide.

(3) The compensation of the employes referred to in this section shall be paid by the licensee conducting the thoroughbred race meeting in connection with which said employes are utilized or employed. The salary of the secretary to the commission shall be prorated among and paid by the various associations licensed under KRS 230.210 to 230.360 in the manner as the commission may, by rule, provide. The employes referred to in this section shall be deemed employes of the commission, and are paid by the licensee or association for convenience only.

(4) *Upon award and utilization of any pari-mutuel tax credit granted pursuant to KRS Chapter 138, an association shall grant to its racing officials fifty dollars ($50) in unvouchered expense money per work day for each thoroughbred race meeting at which the racing official is actually utilized or employed, if the principal residence of the racing official is fifty (50) miles or more away from the thoroughbred race meeting.* Each person, as a condition precedent to the privilege of receiving a license under KRS 230.210 to 230.360 to conduct a thoroughbred race meeting, shall be deemed to have agreed that it will pay such expenses and compensation as provided in this section and as may be actually and reasonably incurred.

The Committee Amendment No. 1 to **HB 806** is as follows:

Amend printed copy of **HB 806** on page 1, line 16, by adding after the word "*outrider,*" the word "*and*"; and

On page 1, line 16, by deleting after the word "*starter*" the following, "*, and assistant starter*".

HB 908, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the alcoholic beverage control board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500; Provided, however, the licensee may have the alternative, subject to the approval of the alcoholic beverage control board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, *four hundred dollars ($400)* [~~one hundred dollars ($100)~~] per day; *all* [~~retail drink~~] liquor *by the drink* licensees, *fifty dollars ($50)* [~~twenty-five dollars ($25)~~] per day; retail package liquor licensees, *fifty dollars ($50)* [~~twenty-five dollars ($25)~~] per day; retail beer licensees, *twenty-five dollars ($25)* [~~ten dollars ($10)~~] per day; all remaining licensees, ten dollars ($10) per day.

(2) Payments in lieu of suspension collected by the alcoholic beverage control board shall be deposited in the state treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

Section 2. KRS 244.090 is amended to read as follows:

(1) No person holding any license under KRS 243.020 to 243.670 shall knowingly employ in connection with his business, in any capacity whatsoever, any person who:

(a) Has been convicted of *a* [~~any~~] felony *or of any*[~~,~~] misdemeanor or offense directly or indirectly attributable to the use of intoxicating liquors, within the last two (2) years.

(b) Is under the age of twenty (20) years, except in a bottling house or room of a licensed distiller, vintner or brewer or rectifier and except in an office of a wholesaler or manufacturer maintained in a building separate from the warehouses or factory or as provided in KRS 244.087.

(c) Is not a citizen of the United States.

(d) Within two (2) years prior to the date of his employment, has had any license issued under KRS 243.020 to 243.670 or under any other act or ordinance relating to the regulation of the manufacture, sale or transportation of alcoholic beverages revoked for cause.

(2) Violation of this section shall subject both employer and employe to penalties provided in this chapter, and shall be cause for revocation of license.

Section 3. KRS 244.310 is amended to read as follows:

(1) No licensee for sale of distilled spirits and wine by the drink, other than a railroad system licensee, shall keep upon the licensed premises any distilled spirits or wine in any container except in the original

package containing quantities of not exceeding *one and seventy-five hundredths (1.75)* [~~three and five-tenths (3.5)~~] liters each of distilled spirits or two hundred twenty (220) liters each of wine, and containing not less than *two hundred (200)* [~~seven hundred fifty (750)~~] milliliters [~~each~~] of distilled spirits, and not less than one hundred (100) milliliters each of wine [~~not exceeding fourteen per cent (14%) alcohol by volume, as received from the wholesaler, if the retail drink license is held by a restaurant or private club which receives a minimum of forty per cent (40%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables, except mixed drinks which contain a substantial proportion of carbonated water and which are sold by entire bottles containing not less than three hundred fifty-five (355) milliliters. If the licensee also holds a retail package license, the containers may contain as little as two hundred (200) milliliters of distilled spirits and one hundred (100) milliliters of wine~~].

(2) Each container shall have affixed to it such labels as may be required by the regulations of the board, together with all required federal revenue tax stamps.

The Committee Substitute to **HB 908** is as follows:

HB 908, AN ACT relating to alcoholic beverage control.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.480 is amended to read as follows:

(1) Upon proceedings for the revocation of any license under KRS 243.520, the alcoholic beverage control board, or the local alcoholic beverage administrator, may in its or his discretion, as the case may be, order a suspension of the license for any cause for which it may, but is not required to, revoke the license under the provisions of KRS 243.490 and 243.500; Provided, however, the licensee may have the alternative, subject to the approval of the alcoholic beverage control board or the local alcoholic beverage administrator, to pay in lieu of part or all of the days of any suspension period, a sum as follows: Distillers, rectifiers, vintners, brewers and blenders, one thousand dollars ($1,000) per day; wholesale liquor licensees, four hundred dollars ($400) per day; wholesale beer licensees, *four hundred dollars ($400)* [~~one hundred dollars ($100)~~] per day; *all* [~~retail drink~~] liquor *by the drink* licensees, *fifty dollars ($50)* [~~twenty-five dollars ($25)~~] per day; retail package liquor licensees, *fifty dollars ($50)* [~~twenty-five dollars ($25)~~] per day; retail beer licensees, *twenty-five dollars ($25)* [~~ten dollars ($10)~~] per day; all remaining licensees, ten dollars ($10) per day.

(2) Payments in lieu of suspension collected by the alcoholic beverage control board shall be deposited in the state treasury and credited to the general expenditure fund. Payments in lieu of suspension collected by local alcoholic beverage administrators shall be deposited and used as local alcoholic beverage license tax receipts are deposited and used.

(3) Appeals from orders of suspension and the procedure thereon shall be the same as are provided for orders of revocation in KRS 243.550 to 243.590.

HB 955, AN ACT relating to cosmetology.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317A.100 is amended to read as follows:

(1) The cosmetologist board may prescribe reasonable rules and regulations pertaining to the issuance of a license, upon payment of the prescribed license fee, to any person holding a comparable license issued by another state where the laws of such state, in the opinion of the cosmetologist board, provide comparable professional qualification, health and safety standards.

(2) Notwithstanding the provisions of subsection (1) of this section, a license to operate or practice in this state may be refused or denied a holder of a license issued by another state if such state does not extend to the holder of a Kentucky license similar or comparable recognition and opportunity.

(3) Other provisions of the Kentucky Revised Statutes notwithstanding, cosmetologists duly licensed under KRS 317A.050 and with a minimum of two (2) years of experience, shall be eligible without examination for

a barber's license under KRS 317.450, upon proper application and payment of requisite fees.

HB 956, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering.

(2) "Track" means any association duly licensed by the Kentucky state racing commission or the Kentucky harness racing commission to conduct horse racing.

(3) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track.

(4) "Host track" means the track conducting racing and offering its races for simulcasting.

(5) "Receiving track" means a track where simulcasts are displayed for wagering purposes.

(6) "Commission of jurisdiction" means the racing commission under whose authority a track is licensed and regulated to conduct horse racing.

(7) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call to the track.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track conducting a race meeting in the Commonwealth of Kentucky shall participate in intertrack wagering as a host track and shall make a simulcast signal of its races available to any track that desires to receive the simulcast. Receipt of simulcasting and participation in intertrack wagering as a receiving track is at the discretion of each track. Failure of a track to participate in intertrack wagering as a host track may be grounds for the suspension or revocation of the track's license.

(2) No track shall be permitted to receive simulcasts from a host track conducting racing in the same county or from a host track conducting racing at the same time as a host track conducting racing in the same county, unless such simulcasts are agreed to in writing by the receiving track and the host track in the same county.

(3) In a county containing more than one (1) track, the track which conducts racing of the same breed as a host track shall have an exclusive right of first refusal for the simulcasts of such races. If the track conducting racing of the same breed does not receive the simulcasts, the other track in the county may do so and all tracks may receive the simulcasts if agreed to in writing by the tracks affected.

(4) Each host track may exempt one (1) racing day within a calendar year from simulcasting on a track by track basis by notifying the commission of jurisdiction at least thirty (30) days prior to the date to be exempted.

(5) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission of jurisdiction to be of sufficient national or international significance or interest to warrant interstate wagering. All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) Each commission of jurisdiction is vested with power to promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating

the conditions under which such wagering shall be held and conducted. Such administrative regulations are to provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All such administrative regulations shall be in conformity with the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting and through a telephone account wagering system. A receiving track shall be solely responsible for conducting its own wagering pools and for making all payoffs. The commission of jurisdiction may require wagers at a receiving track to form a common pool with wagers at a host track if it is deemed feasible and to be in the public interest.

(2) The commission of a receiving track shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750, plus two percent (2%). The additional two percent (2%) shall be retained by the receiving track and allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes, shall be split as follows: twenty-five percent (25%) to the host track, twenty-five percent (25%) to the purse program at the host track, twenty-five percent (25%) to the receiving track and twenty-five percent (25%) to the purse program at the receiving track.

(4) The deduction for the backside improvement fund, as provided for in KRS 138.515(4) and the deduction for equine drug research provided for in KRS 230.265(3), shall not apply to the commission or pari-mutuel tax of a receiving track.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) A track may engage in telephone account wagering, provided that all telephone calls to place wagers be made to a location within the track enclosure, and provided that all moneys used to place telephone account wagers be on deposit in an amount sufficient to cover the wages at the track where the account is opened. All moneys wagered by telephone account wagering shall be subject to the applicable pari-mutuel tax levied in KRS 138.510 and shall form a common pool with other pari-mutuel pools at the track for each posted race. The commission of jurisdiction shall have authority to promulgate necessary and reasonable administrative regulations to regulate the conduct of telephone account wagering.

(2) A track shall accept and tabulate a telephone account wager only from the holder of a telephone wagering account. No person shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of a telephone wagering account. No person shall in any manner place a wager through telephone account wagering, on behalf of a holder of a telephone wagering account. Only the holder of a telephone wagering account shall place a telephone wager. Any person violating this subsection shall be guilty of a class A misdemeanor.

(3) Telephone account wagering conducted in accordance with the provisions of this section shall not be considered a violation of KRS 528.110.

Section 5. KRS 138.510 is amended to read as follows:

(1) *Through December 31, 1988,* an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky state racing commission at which betting is conducted through a pari-mutuel or other similar system *and which is conducting a race meeting.* The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until *December 31, 1988* [~~June 30, 1988~~], *host* tracks with a daily average handle of less than nine hundred thousand dollars ($900,000) shall receive a tax credit amounting to three percent (3%) of money wagered, with one and one-half percent (1.5%) to be allocated to purses, one percent (1%) to capital improvement and one-half percent (.5%) for administration. From July 15, 1986 until *December 31, 1988* [~~June 30, 1988~~], *host* tracks with a daily average handle of nine hundred thousand dollars ($900,000) or more shall receive a tax credit amounting to one percent (1%) of money wagered, to be allocated to purses. All money from the tax credit allocated to purses shall be in addition to purse money allocated by contractual agreement or by regulation of the commission. All expenditures of tax credit money shall be reported to and approved

by the commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. An amount equal to three-quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 13, 1984, until *December 31,* [~~September 15,~~] 1988, any *host* track with a daily average handle of less than nine hundred thousand dollars ($900,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated in the same manner as the tax credit is allocated.

(2) *Through December 31, 1988* an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky harness racing commission at which betting is conducted through a pari-mutuel or other similar system *and which is conducting a race meeting.* The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering on [~~harness~~] racing *under the jurisdiction of the Kentucky harness racing commission* shall be deducted from the tax and set aside by the revenue cabinet and shall be deposited in the Kentucky standardbred, *quarter horse, appaloosa and arabian* development fund created and described in KRS 230.770. From July 15, 1982, until *December 31* [~~June 30~~], 1988, associations conducting a race meet under the jurisdiction of the Kentucky harness racing commission with a daily average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of three percent (3%) of all money wagered, two percent (2%) to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect and three-quarters of one percent (3/4 of 1%) to be allocated to overnight purses and one-quarter of one percent (1/4 of 1%) to be allocated to the Kentucky standardbred, *quarter horse, appaloosa and arabian* development fund. Said expenditures shall be reported to and approved by the harness racing commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. From July 13, 1986, until *December 31* [~~September 15~~], 1988, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred, *quarter horse, appaloosa and arabian* development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.

(3) *Effective January l, l989, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky state racing commission and the Kentucky harness racing commission. For tracks with a daily average handle of nine hundred thousand dollars ($900,000) or above, the tax shall be in the amount of two and one-quarter percent (2 1/4%) of all money wagered during the fiscal year. For tracks with a daily average handle under nine hundred thousand dollars ($900,000) the tax shall be an amount equal to one and one-quarter percent (1 1/4%) of all money wagered during the fiscal year. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the same amount and same manner as provided for in subsections (1) and (2) of this section.*

(4) An excise tax is imposed on all tracks not conducting pari-mutuel racing but participating as receiving tracks in intertrack wagering under the jurisdictions of the Kentucky state racing commission and the Kentucky harness racing commission. From the effective date of this Act until June 30, l990, the tax shall be in the amount of five percent (5%) of all money wagered during the fiscal year. After June 30, l990, the tax shall be in the amount of three percent (3%) of all money wagered during the fiscal year. After June 30, 1990 an amount equal to two percent (2%) of the amount wagered and deducted form the tax imposed in this subsection shall be deposited in the thoroughbred development fund if the receiving track is under the jurisdiction of the Kentucky state racing commission, or the Kentucky standardbred, quarter horse, appaloosa and arabian development fund, if the receiving track is under the jurisdiction of the Kentucky harness racing commission.

(5) Two-tenths of one percent (.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), [~~and~~] (2) *and (3)* of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

Section 6. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210

to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or Appaloosa racing or interfere with the orderly conduct of thoroughbred racing or Appaloosa racing at thoroughbred race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.215 to *230.374* [~~230.3611~~] and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable rules, regulations and conditions under which thoroughbred horse racing and Appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission; and

(5) The commission shall establish by regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the legislative research commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the legislative research commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(7) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8) The commission shall have authority to compel any racing association licensed under KRS 230.215 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 7. KRS 230.320 is amended to read as follows:

(1) Every license granted under KRS 230.210 to 230.360 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.210 to *230.374* [~~230.3611~~] or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of thoroughbred horse racing and Appaloosa horse racing may prescribe rules and regulations under which any license may be denied, suspended or revoked.

(2) Any person alleged to have committed a violation under subsection (1) of this section may request a stay of imposition of the stewards' sanction. Pending appeal, a hearing on such request for stay shall be held within forty-eight (48) hours of the receipt of the request for a stay by the commission. In the event the commission is not able to hold a hearing within forty-eight (48) hours, the stay shall be automatically granted. It shall be the policy of the commission to grant stays, unless:

(a) In any case where a licensee is alleged to have committed a flagrant violation of the prescribed rules and regulations of racing which presents a clear and present danger to the immediate integrity of racing, and

(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial stewards' determination of a violation.

(3) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued under KRS 230.210 to 230.360 is final except that such action is subject to review by any court of competent jurisdiction. The action of the commission shall remain in full force and effect until reversed or modified by a valid order of such court.

Section 8. KRS 230.361 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and Appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.215 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) [~~Other provisions of the Kentucky Revised Statutes notwithstanding, the commission shall permit a licensed association to conduct pari-mutuel wagering on racing conducted at another licensed association in the Commonwealth. Such wagering shall form a common pool with wagering conducted by the association conducting the racing. The commission shall also permit licensed associations to conduct pari-mutuel wagering on special event races conducted in other states or foreign countries, which are determined to be of sufficient national or international significance or interest to warrant interstate wagering. All such wagering shall form a common pool and shall be conducted in accordance with applicable federal law.~~

~~(3) The take-out for pari-mutuel wagering conducted under subsection (2) of this section shall be an amount equal to that withheld under the provisions of KRS 138.515. Gross revenues retained from such wagering, after payment of the pari-mutuel tax only, shall be applied to purses in the same percent ratio as gross revenues from on-track pari-mutuel wagering, after payment of the pari-mutuel tax only, are applied to purses. Remaining revenues shall be apportioned by contractual agreement between the association conducting the racing and the association conducting the wagering under subsection (2) of this section. The pari-mutuel tax credit permitted in KRS 138.510 shall not apply to pari-mutuel wagering conducted under subsection (2) of this section.~~

~~(4)~~] In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3)[~~(5)~~] All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

(4)[~~(6)~~] The commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; provided that all proceeds from such wagering, after expenses are deducted, be used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the commission may not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations of the commission.

Section 9. KRS 230.374 is amended to read as follows:

All sums reported and paid to the commission under the provisions of KRS 230.361 to 230.373 shall be paid by the commission to the Kentucky Racing Health and Welfare Fund, Inc., a nonprofit charitable corporation, *hereby established* [~~organized~~] for the benefit, aid, assistance and relief of owners, trainers, jockeys, valets, exercise boys, grooms, stable attendants, pari-mutuel clerks and other racing personnel employed in connection with racing, and their wives and children, who can demonstrate their need for financial assistance connected with death, illness or off-the-job injury and are not otherwise covered by union health and welfare plans, workers' compensation, social security, public welfare, or any type of health, medical, death or accident insurance. [~~Said fund may also purchase or lease property and acquire other assets necessary to operate a home for aged and needy persons described above~~]. Said sums shall be paid on or before December 31 in each year, provided that no payments shall be made by the commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the commission and the auditor of public accounts are satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth above and that no part of the funds paid to the fund by the commission or any net earnings of the fund inure to the benefit of any private individual, director, officer or member of the fund or any of the persons who turned over sums to the commission representing unclaimed pari-mutuel tickets.

Section 10. KRS 230.620 is amended to read as follows:

(1) The Kentucky harness racing commission shall be an agency independent of state administrative departments and shall be in the public protection and regulation cabinet.

(2) The commission shall consist of nine (9) persons appointed by the governor. At least one (1) of these members shall have no financial interest in the business or industry regulated. Effective July 15, 1986, two (2) members shall be appointed for one (1) year terms, two (2) members for two (2) year terms, two (2) members for three (3) year terms and three (3) members for four (4) year terms. Thereafter, all members shall serve a term of four (4) years or until their successors are appointed and duly qualified.

(3) The governor shall appoint three (3) members as advisory members of the Kentucky harness racing commission, with non-voting rights, to represent the interests of the quarter horse, Appaloosa and Arabian industries. The initial members shall serve a term of three (3) years from the effective date of their appointments. Thereafter, their successors shall serve terms of four (4) years.

(4) The commission shall biennially make a full report to the general assembly of its proceedings for the two (2) year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(5) The commission may appoint *an executive director to serve as administrative head of the agency, and a* [~~one (1) or more~~] deputy *commissioner* [~~commissioners~~] and *an* assistant deputy *commissioner* [~~commissioners~~] who shall perform such duties as prescribed by the commission.

(6) The voting members of the commission shall receive fifty dollars ($50) per day for each commission meeting they attend. Non-voting members shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

Section 11. KRS 230.750 is amended to read as follows:

The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a horse track under the jurisdiction of the commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime. Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta and other types of exotic betting. *Effective January 1, 1989, an amount equal to three percent (3%) of the total amount wagered and included in the commission of a host track shall be allocated by the host track in the following manner. Two percent (2%) shall be allocated to the host for capital improvements, promotions, including advertising, or purses, as the host track shall elect. Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses. One-quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred, quarterhorse, appaloosa and arabian development fund. Such allocation shall be made after deduction from the commission of the pari-mutuel tax but prior to any other deduction, allocation or division of the commission.*

Section 12. KRS 230.770 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky harness racing commission, designated as the Kentucky standardbred, *quarter horse, appaloosa and arabian* development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. *For the purposes of this section, "development fund" or "fund" means the Kentucky standardbred, quarter horse, appaloosa and arabian development fund.*

Money to the credit of the [~~Kentucky standardbred~~] development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky harness racing commission and upon approval of the secretary of the department of finance. Money to the credit of the [~~Kentucky standardbred development~~] fund at the end of each fiscal year shall not lapse, but shall be carried forward in *the* [~~such~~] fund to the succeeding fiscal year.

(2) The Kentucky harness racing commission shall use the [~~Kentucky standardbred~~] development fund to promote races, and to provide purses for such races, for horses sired by [~~standardbred~~] stallions standing within the Commonwealth of Kentucky *or as provided in subsection (2)(b) of this section.* For purposes of this section, the term stallions standing within the Commonwealth of Kentucky shall include only [~~standardbred~~] stallions standing the entire breeding season within the Commonwealth of Kentucky and registered as such with the Kentucky harness racing commission.

(a) The commission shall provide for distribution of money to the credit of the [~~Kentucky standardbred~~] development fund to persons, corporations or associations operating licensed standardbred race tracks within Kentucky on an equitable basis, for the purpose of conducting separate races for two and three year old fillies and colts, both trotting and pacing, sired by standardbred stallions standing within the Commonwealth of Kentucky at the time of conception thereof.

[~~Provided, however, that~~] Notwithstanding other provisions hereof, a filly or colt foaled prior to January 1, 1978 shall be eligible to participate in races, a part of the purse for which is provided by money of the [~~Kentucky standardbred~~] development fund, if the sire of such filly or colt was standing at stud within the Commonwealth of Kentucky at the time of conception of such filly or colt.

(b) The commission shall provide for distribution of money to the credit of the development fund to persons, corporations or associations operating licensed racetracks within Kentucky conducting quarter horse, appaloosa or arabian racing, on an equitable basis as determined by the commission.

(3) Money distributed from the [~~Kentucky standardbred~~] development fund to licensed *standardbred* race tracks within the Commonwealth shall be used exclusively to promote races and provide purses for races conditioned to admit only standardbred colts and fillies sired by standardbred stallions standing within the Commonwealth of Kentucky.

(4) The Kentucky harness racing commission shall fix the amount of money to be paid from the [~~Kentucky standardbred~~] development fund to be added to the purse provided for each [~~such~~] race by the licensed operator of *the* [~~such standardbred~~] race track; shall fix the dates and conditions of [~~such~~] races to be held by licensed race tracks; and shall adopt *administrative* [~~such rules and~~] regulations [~~as may be~~] necessary to carry out the provisions of this section. *Money from the fund shall be allocated to each breed of horse represented in the fund in an amount equal to the amount the breed has contributed to the fund.*

(5) The Kentucky harness racing commission may adopt *administrative* [~~such rules and~~] regulations [~~as may be~~] necessary to determine the eligibility of horses for entry in races for which a portion of the purse is provided by money of the [~~Kentucky standardbred~~] development fund, including *administrative* [~~rules and~~] regulations for the registration of [~~standardbred~~] stallions standing within Kentucky and progeny thereof, including registration of progeny of *the* [~~such~~] stallions foaled prior to June 19, 1976.

(6) The Kentucky harness racing commission shall appoint [~~such~~] qualified personnel *necessary* [~~as may be required~~] to supervise registration of, or determination of eligibility of, horses entitled to entry in races, a portion of the purse of which is provided by the [~~Kentucky standardbred~~] development fund, to assist the commission in determining the conditions, class and quality of the fund supported race program to be established hereunder so as to carry out the purposes of this section. Such persons shall serve at the pleasure of the commission and compensation shall be fixed by the commission. The compensation of such personnel and necessary expenses shall be paid out of the [~~Kentucky standardbred~~] development fund.

The commission shall adopt *administrative regulations* [~~such rules as are necessary~~] to carry out the provisions of this section, and shall administer the Kentucky sire stakes program created hereby in a manner best designed to promote and aid in the development of the [~~standardbred~~] horse industry in Kentucky; to upgrade the quality of [~~standardbred~~] racing in Kentucky; and to improve the quality of [~~standardbred~~] horses bred in Kentucky.

Section 13. KRS 230.3611, Limitation on pools, is repealed.

The Committee Substitute to **HB 956** is as follows:

HB 956, AN ACT relating to horse racing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context requires otherwise:

(1) "Simulcasting" means the telecast of live audio and visual signals of horse races for the purpose of pari-mutuel wagering.

(2) "Track" means any association duly licensed by the Kentucky state racing commission or the Kentucky harness racing commission to conduct horse racing.

(3) "Intertrack wagering" means pari-mutuel wagering on simulcast horse races from a host track by patrons at a receiving track.

(4) "Host track" means the track conducting racing and offering its races for simulcasting.

(5) "Receiving track" means a track where simulcasts are displayed for wagering purposes.

(6) "Commission of jurisdiction" means the racing commission under whose authority a track is licensed and regulated to conduct horse racing.

(7) "Telephone account wagering" means a form of pari-mutuel wagering where an individual may deposit money in an account at a track and may place a wager by direct telephone call to the track or by communication through other electronic media.

SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Other provisions of the Kentucky Revised Statutes notwithstanding, a track conducting a race meeting in the Commonwealth of Kentucky may participate in intertrack wagering as a host track and may make a simulcast signal of its races available to any track that desires to receive the simulcast. Receipt of simulcasting and participation in intertrack wagering as a receiving track is at the discretion of the host track.

(2) No track shall be permitted to receive simulcasts from a host track conducting racing in the same county or from a host track conducting racing on the same days as a host track conducting racing in the same county unless such simulcasts are agreed to in writing by the receiving track and the host track in the same county.

(3) In a county with a population of less than one hundred fifty thousand (150,000) people and containing more than one (1) track, the track which conducts racing of the same breed as a host track shall have an exclusive right of first refusal for the simulcasts of such races. If the track conducting racing of the same breed does not receive the simulcasts, the other track in the county may do so and all tracks may receive the simulcasts if agreed to in writing by the tracks affected.

(4) In a county containing more than one (1) track, the track which conducts racing of the same breed as a host track shall approve in writing the simulcasting of racing of that breed before another track in the same county may simulcast such races. All tracks may receive the simulcasts if agreed to in writing by the tracks affected.

(5) A track may receive simulcasts of special event races conducted in other states or foreign countries which are determined by the commission of jurisdiction to be of sufficient national or international significance or interest to warrant interstate wagering. All interstate simulcasting shall be conducted in accordance with applicable federal laws.

(6) Each commission of jurisdiction is vested with power to promulgate necessary and reasonable administrative regulations for the purpose of administering the conduct of intertrack wagering and regulating the conditions under which such wagering shall be held and conducted. Such administrative regulations are to provide for the prevention of practices detrimental to the public interest and to impose penalties for violations. All such administrative regulations shall be in conformity with the provisions of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) A receiving track may accept wagers only at the track where it is licensed to conduct its race meeting or through a telephone account wagering system, or both. Wagers at a receiving track shall form a common pool with wagers at a host track.

(2) The commission of a receiving track shall be the same as the commission of the host track as determined in KRS 138.515 or 230.750.

(3) In the absence of a valid contract with a horsemen's organization, the commission of a receiving track, after deduction of applicable taxes and other applicable deductions, shall be split as follows: twenty-two percent (22%) to the host track, twenty-two percent (22%) to the purse program at the host track, twenty-two percent (22%) to the receiving track and twenty-two percent (22%) to the purse program at the receiving track. Twelve percent (12%) of the commission shall be allocated evenly between the host track and the receiving track to cover the cost of simulcasting, unless otherwise agreed to by contract.

(4) The deduction for the backside improvement fund, as provided for in KRS 138.515(4) and the deduction for equine drug research provided for in KRS 230.265(3), shall not apply to the commission or pari-mutuel tax of a receiving track.

(5) A receiving track shall be exempt from the admissions tax levied in KRS 138.480 and from any license fee imposed by statute or regulation by the commission of jurisdiction.

SECTION 4. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) A track may engage in telephone account wagering, provided that all telephone calls to place wagers be made to a location within the track enclosure, and provided that all moneys used to place telephone account wagers be on deposit in an amount sufficient to cover the wagers at the track where the account is opened. All moneys wagered by telephone account wagering shall be subject to the applicable pari-mutuel tax levied in KRS 138.510 and shall form a common pool with other pari-mutuel pools at the track for each posted race. The commission of jurisdiction shall have authority to promulgate necessary and reasonable administrative regulations to regulate the conduct of telephone account wagering.

(2) A track shall accept and tabulate a telephone account wager only from the holder of a telephone wagering account. No person shall directly or indirectly act as an intermediary, transmitter or agent in the placing of wagers for a holder of a telephone wagering account. No person shall in any manner place a wager through telephone account wagering, on behalf of a holder of a telephone wagering account. Only the holder of a telephone wagering account shall place a telephone wager. Any person violating this subsection shall be guilty of a class A misdemeanor.

(3) Telephone account wagering conducted in accordance with the provisions of this section shall not be considered a violation of KRS 528.110.

Section 5. KRS 138.510 is amended to read as follows:

(1) *Through July 15, 1988,* an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky state racing commission at which betting is conducted through a pari-mutuel or other similar system *and which is conducting a race meeting.* The tax shall be an amount equal to four and three-fourths percent (4 3/4%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. From July 15, 1982, until *July 15* [~~June 30~~], 1988, tracks with a daily average handle of less than nine hundred thousand dollars ($900,000) shall receive a tax credit amounting to three percent (3%) of money wagered, with one and one-half percent (1.5%) to be allocated to purses, one percent (1%) to capital improvement and one-half percent (.5%) for administration. From July 15, 1986 until *July 15* [~~June 30~~], 1988, tracks with a daily average

handle of nine hundred thousand dollars ($900,000) or more shall receive a tax credit amounting to one percent (1%) of money wagered, to be allocated to purses. All money from the tax credit allocated to purses shall be in addition to purse money allocated by contractual agreement or by regulation of the commission. All expenditures of tax credit money shall be reported to and approved by the commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. An amount equal to three-quarters of one percent (3/4 of 1%) of all pari-mutuel wagering shall be deducted from the tax and deposited in the Kentucky thoroughbred development fund created and described in KRS 230.400. From July 13, 1984, until September 15, 1988, any track with a daily average handle of less than nine hundred thousand dollars ($900,000), which experienced an overlap of its racing dates in 1983 with another thoroughbred track, shall be exempt from payment of the tax levied under this subsection, with exception of the amount to be paid to the thoroughbred development fund, and the license tax levied in KRS 137.170, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated in the same manner as the tax credit is allocated.

(2) *Through July 15, 1988* an excise tax is imposed on every person, corporation or association which operates a race track under the jurisdiction of the Kentucky harness racing commission at which betting is conducted through a pari-mutuel or other similar system *and which is conducting a race meeting.* The tax shall be an amount equal to five percent (5%) of all money wagered during the year. A year as used herein shall begin at 12:01 a. m. July 1 and end at 12 midnight June 30. An amount equal to one percent (1%) of all pari-mutuel wagering on [~~harness~~] racing *under the jurisdiction of the Kentucky harness racing commission* shall be deducted from the tax and set aside by the revenue cabinet and shall be deposited in the Kentucky standardbred, *quarter horse, appaloosa and arabian* development fund created and described in KRS 230.770. From July 15, 1982, until *July 15* [~~June 30~~], 1988, associations conducting a race meet under the jurisdiction of the Kentucky harness racing commission with a daily average handle of less than three hundred thousand dollars ($300,000) shall receive a tax credit of three percent (3%) of all money wagered, two percent (2%) to be allocated to the associations for capital improvements, promotions, including advertising, or purses, as the association shall elect and three-quarters of one percent (3/4 of 1%) to be allocated to overnight purses and one-quarter of one percent (1/4 of 1%) to be allocated to the Kentucky standardbred, *quarter horse, appaloosa and arabian* development fund. Said expenditures shall be reported to and approved by the harness racing commission in such form and frequency as the commission by regulation may require. Copies of all such reports shall also be sent to the legislative research commission. From July 13, 1986, until September 15, 1988, any association with a daily average handle of less than three hundred thousand dollars ($300,000), which experienced an overlap of racing dates in 1983 with a thoroughbred track within fifty (50) miles, shall be exempt from payment of the tax levied in this subsection, with exception of the amount to be paid to the standardbred, *quarter horse, appaloosa and arabian* development fund, for the period of the overlap should the 1983 overlap of racing dates be continued. Moneys retained under this provision shall be allocated fifty percent (50%) to purses and fifty percent (50%) to the association.

(3) *Effective July l5, l988, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky state racing commission and the Kentucky harness racing commission. For tracks with a daily average handle of nine hundred thousand dollars ($900,000) or above, the tax shall be in the amount of three and one-half percent (3 1/2%) of all money wagered during the fiscal year. For tracks with a daily average handle under nine hundred thousand dollars ($900,000) the tax shall be an amount equal to one and one-half percent (1 1/2%) of all money wagered during the fiscal year. For the purposes of this subsection and subsections (1) and (2) of this section, the daily average handle shall be computed from the amount wagered only at the host track and shall not include money wagered at a receiving track. Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the same amount and same manner as provided for in subsections (1) and (2) of this section.*

(4) An excise tax is imposed on all tracks not conducting pari-mutuel racing but participating as receiving tracks in intertrack wagering under the jurisdictions of the Kentucky state racing commission and the Kentucky harness racing commission. From the effective date of this Act until June 30, l990, the tax shall be in the amount of five percent (5%) of all money wagered during the fiscal year. After June 30, l990, the tax shall be in the amount of three percent (3%) of all money wagered during the fiscal year. After June 30, 1990 an amount equal to two percent (2%) of the amount wagered and deducted form the tax imposed in this subsection shall be deposited in the thoroughbred development fund if the receiving track is under the jurisdiction of the Kentucky state racing commission, or the Kentucky standardbred, quarter horse, appaloosa and arabian development fund, if the receiving track is under the jurisdiction of the Kentucky harness racing commission.

(5) Two-tenths of one percent (.2%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), [~~and~~] (2) *and (3)* of this section and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University

of Louisville.

Section 6. KRS 230.260 is amended to read as follows:

The commission, in the interest of breeding or the improvement of the breed of thoroughbred horses, shall have all powers necessary and proper to carry out fully and effectually the provisions of KRS 230.210 to 230.360 including, but without limitation, the following:

(1) The commission is vested with jurisdiction and supervision over all thoroughbred race meetings in this Commonwealth and over all associations and all persons on association grounds and may eject or exclude therefrom or any part thereof, any person, licensed or unlicensed, whose conduct or reputation is such that his presence on association grounds may, in the opinion of the commission, reflect on the honesty and integrity of thoroughbred racing or Appaloosa racing or interfere with the orderly conduct of thoroughbred racing or Appaloosa racing at thoroughbred race meetings; provided, however, no persons shall be excluded or ejected from association grounds solely on the ground of race, color, creed, national origin, ancestry, or sex;

(2) The commission, its representatives and employes, may visit, investigate and have free access to the office, track, facilities or other places of business of any licensee for the purpose of satisfying itself that KRS 230.215 to *230.374* [~~230.3611~~] and its rules and regulations are strictly complied with;

(3) The commission shall have full authority to prescribe necessary and reasonable rules, regulations and conditions under which thoroughbred horse racing and Appaloosa racing at a thoroughbred race meeting shall be conducted in this state and to fix and regulate the minimum amount of purses, stakes or awards to be offered for the conduct of any thoroughbred race meeting;

(4) Applications for licenses shall be made in the form, in the manner and contain information as the commission may, by rule, require. Fees for all licenses issued under KRS 230.310 shall be prescribed by and paid to the commission; and

(5) The commission shall establish by regulation minimum fees for jockeys to be effective in the absence of a contract between an employing owner or trainer and a jockey. The minimum fees shall be no less than those of July 1, 1985;

(6) Any of the foregoing rules, regulations and conditions may be altered, amended, repealed and published from time to time. All rules, regulations and conditions shall become effective thirty (30) days after the filing thereof with the legislative research commission unless the governor finds an emergency to exist in which event the same shall become effective immediately upon filing with the legislative research commission. The commission may, but shall not be required to, advertise any of its regulations either before or after filing;

(7) The commission may issue subpoenas for the attendance of witnesses before it and administer oaths to such witnesses whenever, in the judgment of the commission, it is necessary to do so for the effectual discharge of its duties;

(8) The commission shall have authority to compel any racing association licensed under KRS 230.215 to 230.360 to file with the commission at the end of its fiscal year, a balance sheet, showing assets and liabilities, and an earnings statement, together with a list of its stockholders or other persons holding a beneficial interest in the association.

Section 7. KRS 230.320 is amended to read as follows:

(1) Every license granted under KRS 230.210 to 230.360 is subject to revocation or suspension by the commission in any case where it has reason to believe that any provision of KRS 230.210 to *230.374* [~~230.3611~~] or rule, regulation or condition of the commission affecting it has not been complied with or has been broken or violated. The commission in the interest of honesty and integrity of thoroughbred horse racing and Appaloosa horse racing may prescribe rules and regulations under which any license may be denied, suspended or revoked.

(2) Any person alleged to have committed a violation under subsection (1) of this section may request a stay of imposition of the stewards' sanction. Pending appeal, a hearing on such request for stay shall be held within forty-eight (48) hours of the receipt of the request for a stay by the commission. In the event the commission is not able to hold a hearing within forty-eight (48) hours, the stay shall be automatically

granted. It shall be the policy of the commission to grant stays, unless:

(a) In any case where a licensee is alleged to have committed a flagrant violation of the prescribed rules and regulations of racing which presents a clear and present danger to the immediate integrity of racing, and

(b) Wherein it is impossible for the commission to secure necessary scientific evidence or indispensable witnesses within forty-eight (48) hours, then the commission or its designated hearing officer may refuse a request for the stay of any penalty imposed, as long as a hearing is held no later than thirty (30) days from the initial stewards' determination of a violation.

(3) If any license is denied, suspended or revoked the commission shall state publicly its reasons for the suspension or revocation and shall cause an entry of such reasons to be made on its record book. The action of the commission in denying, suspending or revoking any license issued under KRS 230.210 to 230.360 is final except that such action is subject to review by any court of competent jurisdiction. The action of the commission shall remain in full force and effect until reversed or modified by a valid order of such court.

Section 8. KRS 230.361 is amended to read as follows:

(1) The commission shall adopt rules governing and regulating mutuel wagering on thoroughbred races and Appaloosa races at a thoroughbred race meeting under what is known as the pari-mutuel system of wagering. Such wagering shall be conducted only by a person licensed under KRS 230.215 to 230.360 to conduct a thoroughbred race meeting and only upon the licensed premises. The pari-mutuel system of wagering shall be operated only by a totalizator or other mechanical equipment approved by the commission. The commission shall not require any particular make of equipment.

(2) [~~Other provisions of the Kentucky Revised Statutes notwithstanding, the commission shall permit a licensed association to conduct pari-mutuel wagering on racing conducted at another licensed association in the Commonwealth. Such wagering shall form a common pool with wagering conducted by the association conducting the racing. The commission shall also permit licensed associations to conduct pari-mutuel wagering on special event races conducted in other states or foreign countries, which are determined to be of sufficient national or international significance or interest to warrant interstate wagering. All such wagering shall form a common pool and shall be conducted in accordance with applicable federal law.~~

~~(3) The take-out for pari-mutuel wagering conducted under subsection (2) of this section shall be an amount equal to that withheld under the provisions of KRS 138.515. Gross revenues retained from such wagering, after payment of the pari-mutuel tax only, shall be applied to purses in the same percent ratio as gross revenues from on-track pari-mutuel wagering, after payment of the pari-mutuel tax only, are applied to purses. Remaining revenues shall be apportioned by contractual agreement between the association conducting the racing and the association conducting the wagering under subsection (2) of this section. The pari-mutuel tax credit permitted in KRS 138.510 shall not apply to pari-mutuel wagering conducted under subsection (2) of this section.~~

~~(4)~~] In no event shall the operation of a pari-mutuel system for betting where authorized by law constitute grounds for the revocation or suspension of any license issued and held under KRS 230.350.

(3)[~~(5)~~] All reported but unclaimed pari-mutuel winning tickets held in this state by any person or association operating a pari-mutuel or similar system of betting at thoroughbred race meetings shall be presumed abandoned if not claimed by the person entitled thereto within two (2) years from the time the ticket became payable.

(4)[~~(6)~~] The commission may issue a license to conduct pari-mutuel wagering on steeple chases or other racing over jumps; provided that all proceeds from such wagering, after expenses are deducted, be used for charitable purposes. If the dates requested for such a license have been granted to a track within a forty (40) mile radius of the race site, the commission may not issue a license until it has received written approval from the affected track. Pari-mutuel wagering licensed and approved under this subsection shall be limited to four (4) days per year. All racing and wagering authorized by this subsection shall be conducted in accordance with applicable administrative regulations of the commission.

Section 9. KRS 230.374 is amended to read as follows:

All sums reported and paid to the commission under the provisions of KRS 230.361 to 230.373 shall be paid by the commission to the Kentucky Racing Health and Welfare Fund, Inc., a nonprofit charitable corporation, organized for the benefit, aid, assistance and relief of owners, trainers, jockeys, valets, exercise boys, grooms, stable attendants, pari-mutuel clerks and other racing personnel employed in connection with racing, and their wives and children, who can demonstrate their need for financial assistance connected with death, illness or off-the-job injury and are not otherwise covered by union health and welfare plans, workers' compensation, social security, public welfare, or any type of health, medical, death or accident insurance. [~~Said fund may also purchase or lease property and acquire other assets necessary to operate a home for aged and needy persons described above~~]. Said sums shall be paid on or before December 31 in each year, provided that no payments shall be made by the commission to the Kentucky Racing Health and Welfare Fund, Inc., unless the commission and the auditor of public accounts are satisfied that the fund is in all respects being operated for the charitable and benevolent purposes as set forth above and that no part of the funds paid to the fund by the commission or any net earnings of the fund inure to the benefit of any private individual, director, officer or member of the fund or any of the persons who turned over sums to the commission representing unclaimed pari-mutuel tickets.

Section 10. KRS 230.620 is amended to read as follows:

(1) The Kentucky harness racing commission shall be an agency independent of state administrative departments and shall be in the public protection and regulation cabinet.

(2) The commission shall consist of nine (9) persons appointed by the governor. At least one (1) of these members shall have no financial interest in the business or industry regulated. Effective July 15, 1986, two (2) members shall be appointed for one (1) year terms, two (2) members for two (2) year terms, two (2) members for three (3) year terms and three (3) members for four (4) year terms. Thereafter, all members shall serve a term of four (4) years or until their successors are appointed and duly qualified.

(3) The governor shall appoint three (3) members as advisory members of the Kentucky harness racing commission, with non-voting rights, to represent the interests of the quarter horse, Appaloosa and Arabian industries. The initial members shall serve a term of three (3) years from the effective date of their appointments. Thereafter, their successors shall serve terms of four (4) years.

(4) The commission shall biennially make a full report to the general assembly of its proceedings for the two (2) year period ending December 1 preceding the meeting of the general assembly, and shall embody in the report such suggestions and recommendations as it deems desirable.

(5) The commission may appoint *an executive director to serve as administrative head of the agency, and a* [~~one (1) or more~~] deputy *commissioner* [~~commissioners~~] and *an* assistant deputy *commissioner* [~~commissioners~~] who shall perform such duties as prescribed by the commission.

(6) The voting members of the commission shall receive fifty dollars ($50) per day for each commission meeting they attend. Non-voting members shall receive no compensation but shall be reimbursed for actual expenses incurred in the performance of their duties.

Section 11. KRS 230.750 is amended to read as follows:

The commission, including the tax levied in KRS 138.510, deducted from the gross amount wagered by the person, corporation or association which operates a horse track under the jurisdiction of the commission at which betting is conducted through a pari-mutuel or other similar system shall not exceed eighteen percent (18%) of the gross amount handled on straight wagering pools and twenty-five percent (25%) of the gross amount handled on multiple wagering pools, plus the breaks, which shall be made and calculated to the dime. Multiple wagering pools shall include daily double, perfecta, double perfecta, quinella, double quinella, trifecta and other types of exotic betting. *Effective July 15, 1988, an amount equal to three percent (3%) of the total amount wagered and included in the commission of a host track shall be allocated by the host track in the following manner. Two percent (2%) shall be allocated to the host for capital improvements, promotions, including advertising, or purses, as the host track shall elect. Three-quarters of one percent (3/4 of 1%) shall be allocated to overnight purses. One-quarter of one percent (1/4 of 1%) shall be allocated to the Kentucky standardbred, quarterhorse, appaloosa and arabian development fund. Such allocation shall be made after deduction from the commission of the pari-mutuel tax but prior to any other deduction, allocation or division of the commission.*

Section 12. KRS 230.770 is amended to read as follows:

(1) There is hereby created a trust and revolving fund for the Kentucky harness racing commission, designated as the Kentucky standardbred, *quarter horse, appaloosa and arabian* development fund, consisting of money allocated to the fund under the provisions of KRS 138.510, together with such other money as may be contributed to or allocated to the fund from all other sources. *For the purposes of this section, "development fund" or "fund" means the Kentucky standardbred, quarter horse, appaloosa and arabian development fund.* Money to the credit of the [~~Kentucky standardbred~~] development fund shall be distributed by the treasurer for the purposes herein provided upon authorization of the Kentucky harness racing commission and upon approval of the secretary of the department of finance. Money to the credit of the [~~Kentucky standardbred development~~] fund at the end of each fiscal year shall not lapse, but shall be carried forward in *the* [~~such~~] fund to the succeeding fiscal year.

(2) The Kentucky harness racing commission shall use the [~~Kentucky standardbred~~] development fund to promote races, and to provide purses for such races, for horses sired by [~~standardbred~~] stallions standing within the Commonwealth of Kentucky *or as provided in subsection (2)(b) of this section.* For purposes of this section, the term stallions standing within the Commonwealth of Kentucky shall include only [~~standardbred~~] stallions standing the entire breeding season within the Commonwealth of Kentucky and registered as such with the Kentucky harness racing commission.

(a) The commission shall provide for distribution of money to the credit of the [~~Kentucky standardbred~~] development fund to persons, corporations or associations operating licensed standardbred race tracks within Kentucky on an equitable basis, for the purpose of conducting separate races for two and three year old fillies and colts, both trotting and pacing, sired by standardbred stallions standing within the Commonwealth of Kentucky at the time of conception thereof.

[~~Provided, however, that~~] Notwithstanding other provisions hereof, a filly or colt foaled prior to January 1, 1978 shall be eligible to participate in races, a part of the purse for which is provided by money of the [~~Kentucky standardbred~~] development fund, if the sire of such filly or colt was standing at stud within the Commonwealth of Kentucky at the time of conception of such filly or colt.

(b) The commission shall provide for distribution of money to the credit of the development fund to persons, corporations or associations operating licensed racetracks within Kentucky conducting quarter horse, appaloosa or arabian racing, on an equitable basis as determined by the commission.

(3) Money distributed from the [~~Kentucky standardbred~~] development fund to licensed *standardbred* race tracks within the Commonwealth shall be used exclusively to promote races and provide purses for races conditioned to admit only standardbred colts and fillies sired by standardbred stallions standing within the Commonwealth of Kentucky.

(4) The Kentucky harness racing commission shall fix the amount of money to be paid from the [~~Kentucky standardbred~~] development fund to be added to the purse provided for each [~~such~~] race by the licensed operator of *the* [~~such standardbred~~] race track; shall fix the dates and conditions of [~~such~~] races to be held by licensed race tracks; and shall adopt *administrative* [~~such rules and~~] regulations [~~as may be~~] necessary to carry out the provisions of this section. *Money from the fund shall be allocated to each breed of horse represented in the fund in an amount equal to the amount the breed has contributed to the fund.*

(5) The Kentucky harness racing commission may adopt *administrative* [~~such rules and~~] regulations [~~as may be~~] necessary to determine the eligibility of horses for entry in races for which a portion of the purse is provided by money of the [~~Kentucky standardbred~~] development fund, including *administrative* [~~rules and~~] regulations for the registration of [~~standardbred~~] stallions standing within Kentucky and progeny thereof, including registration of progeny of *the* [~~such~~] stallions foaled prior to June 19, 1976.

(6) The Kentucky harness racing commission shall appoint [~~such~~] qualified personnel *necessary* [~~as may be required~~] to supervise registration of, or determination of eligibility of, horses entitled to entry in races, a portion of the purse of which is provided by the [~~Kentucky standardbred~~] development fund, to assist the commission in determining the conditions, class and quality of the fund supported race program to be established hereunder so as to carry out the purposes of this section. Such persons shall serve at the pleasure of the commission and compensation shall be fixed by the commission. The compensation of such personnel and necessary expenses shall be paid out of the [~~Kentucky standardbred~~] development fund.

The commission shall adopt *administrative regulations* [~~such rules as are necessary~~] to carry out the provisions of this section, and shall administer the Kentucky sire stakes program created hereby in a manner best designed to promote and aid in the development of the [~~standardbred~~] horse industry in Kentucky; to upgrade the quality of [~~standardbred~~] racing in Kentucky; and to improve the quality of [~~standardbred~~] horses bred in Kentucky.

Section 13. KRS 230.3611, Limitation on pools, is repealed.

The Committee on Agriculture and Small Business reported **HB 356**, with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 356. AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, (including the position of probation and parole officer), active fire suppression or prevention, or other positions, including but not limited to pilots of the transportation cabinet, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning *and including within the department of agriculture sworn peace officers, pesticide inspectors, agricultural inspectors and supervisors whose work brings them in frequent contact with noxious chemicals.*

(2) Each employer may request hazardous duty coverage for those positions as defined in subsection (1) of this section. Upon request each employer shall certify to the board in the manner prescribed by the board, the names of all employes deemed by the employer to be working in a hazardous position as defined in subsection (1) of this section. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The board shall determine whether the employes whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employe determined by the board to be working in a hazardous position in accordance with subsection (2) of this section shall contribute for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employes determined by the board to be working in a hazardous position at the employer contribution rate as determined by the board. Such rate will be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) In the event the employer participated in the system prior to electing hazardous duty coverage, then said employer may pay to the system an additional lump sum payment in order that the nonhazardous service be credited as hazardous service. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. Should the employer elect not to make the additional payment, then the employe may make the lump sum payment in his own behalf. Payments made by the employe under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employe makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) The normal retirement age, retirement allowance and other benefits, eligibility requirements, rights and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2) and (3) of this section, and the responsibilities, rights and requirements of his employer shall be as prescribed for a member and employer participating in the state police retirement system as provided for by KRS 16.510 to 16.652, except the mandatory retirement provisions of KRS 16.576(1) and the maximum employment age in KRS 16.520(2) shall not be applicable.

(5) Any person employed in a hazardous position after July 1, 1972 shall be required to undergo a thorough

medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employe's department or county and made available to the board upon request.

(6) In the event of doubt regarding the benefits payable to a hazardous position employe under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705 or 78.520 to 78.852 or 16.510 to 16.652.

The Committee Amendment No. 1 to **HB 356** is as follows:

Amend printed copy of **HB 356** on page 1, line 11, by deleting "*agricultural inspectors*".

The Committee on Health and Welfare reported **HB 574** with Committee Amendment attached thereto, **HB 660**, **HB 816**, **HB 883**, **HB 944** with Committee Amendments attached thereto, **HJR 94**, **HCR 124**, **HCR 125**, **HJR 132**, **SB 88** with Committee Amendment attached thereto, and **SB 184** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 574. AN ACT relating to mental health and mental retardation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 210.410 is amended to read as follows:

(1) The secretary of the cabinet for human resources is hereby authorized to make state grants and other fund allocations from the cabinet for human resources to assist any combination of cities and counties, or nonprofit corporations in the establishment and operation of regional community mental health and mental retardation programs which shall provide at least the following services:

(a) Inpatient services;

(b) Outpatient services;

(c) Partial hospitalization *or psycho-social rehabilitation* services;

(d) Emergency services;

(e) Consultation and education services; and

(f) Mental retardation services.

(2) The services required in subsection (1)(a), (b), (c), (d) and (e) of this section shall be available to the mentally ill, drug abusers and alcohol abusers, and all age groups including children and the elderly. The services required in subsection (1)(a), (b), (c), (d), (e) and (f) shall be available to the mentally retarded. *The services required in subsection (1)(b) of this section shall be available to any child age sixteen (16) or older upon request of such child without the consent of a parent or legal guardian.*

Section 2. KRS 214.185 is amended to read as follows:

(1) Any physician, upon consultation by a minor as a patient, with the consent of such minor may make a diagnostic examination for venereal disease, pregnancy, alcohol or other drug abuse or addiction and may advise, prescribe for and treat such minor regarding venereal disease, alcohol and other drug abuse or addiction, contraception, pregnancy or childbirth, all without the consent of or notification to the parent, parents, or guardian of such minor patient, or to any other person having custody of such minor patient. Treatment under this section does not include inducing of an abortion or performance of a sterilization operation. In any such case the physician shall incur no civil or criminal liability by reason of having made such diagnostic examination or rendered such treatment, but such immunity shall not apply to any negligent acts or omissions.

(2) *Any physician may provide outpatient mental health services to any child age sixteen (16) or older upon request of such child without the consent of a parent, parents, or guardian of such child.*

(3) Notwithstanding any other provision of the law, and without limiting cases in which consent may be otherwise obtained or is not required, any emancipated minor or any minor who has contracted a lawful marriage or borne a child may give consent to the furnishing of hospital, medical, dental or surgical care to his or her child or himself or herself and such consent shall not be subject to disaffirmance because of minority. The consent of the parent or parents of such married or emancipated minor shall not be necessary in order to authorize such care. For the purpose of this section only, a subsequent judgment of annulment of marriage or judgment of divorce shall not deprive the minor of his adult status once obtained. The provider of care may look only to the minor or spouse for payment for services under this section unless other persons specifically agree to assume the cost.

(4)[~~(3)~~] Medical, dental and other health services may be rendered to minors of any age without the consent of a parent or legal guardian when, in the professional's judgment, the risk to the minor's life or health is of such a nature that treatment should be given without delay and the requirement of consent would result in delay or denial of treatment.

(5)[~~(4)~~] The consent of a minor who represents that he may give effective consent for the purpose of receiving medical. dental, or other health services but who may not in fact do so, shall be deemed effective without the consent of the minor's parent or legal guardian, if the person rendering the service relied in good faith upon the representations of the minor.

(6)[~~(5)~~] The professional may inform the parent or legal guardian of the minor patient of any treatment given or needed where, in the judgment of the professional, informing the parent or guardian would benefit the health of the minor patient.

(7)[~~(6)~~] Except as otherwise provided in this section, parents, the cabinet for human resources, or any other custodian or guardian of a minor shall not be financially responsible for services rendered under this section unless they are essential for the preservation of the health of the minor.

Section 3. KRS 61.906 is amended to read as follows:

In order to qualify for a commission as a special law enforcement officer under KRS 61.900 to 61:930, an individual must present satisfactory evidence of compliance with the following conditions and requirements:

(1) No person shall be eligible for a commission who:

(a) Has been dishonorably discharged from the armed forces of the United States; or

(b) Has been convicted in any jurisdiction of any felony or of any crime involving moral turpitude for which he has not received a full pardon; or

(c) Has been convicted of any other offense or offenses more than five (5) times within the previous three (3) years; or

(d) Has by any court of competent jurisdiction been declared mentally disabled by reason of mental *retardation* [~~defect~~] or disease and has not been restored; or

(e) Suffers from habitual drunkenness or from narcotics addiction or dependence, or from any physical defect or deficiency which the secretary determines to materially impair the applicant's ability to perform the duties of a special law enforcement officer.

(2) Every person to be eligible for a commission shall:

(a) Have reached his twenty-first birthday;

(b) Provide. on forms supplied by the secretary, such information pertaining to himself as may reasonably be requested thereon. including, but not limited to: his name; age; date of birth; current address and employment; prior addresses and employment for the past ten (10) years; aliases. if any; arrest and conviction record. if any; social security number; fingerprints; photographs; and general physical description. The accuracy of such information shall be attested by the applicant and his attestation shall be notarized by one authorized to administer oaths; and

(c) Be of good moral character; and

(d) Provide references from two (2) reputable residents of the Commonwealth who are not related to him and who have known him well for a period of not less than three (3) years, attesting to his good character; and

(e) Pay the fees provided in KRS 61.908; and

(f) Provide evidence satisfactory to the secretary that he meets the following requirements:

1. Is a graduate of an accredited high school; or of an equivalent technical or vocational training or education program satisfactory to the secretary; or holds a G.E.D. certificate; provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976, shall be deemed to have met the requirements of this subsection; and

2. Has successfully completed not fewer than eighty (80) hours of training in a program approved by the council and dealing comprehensively with the subjects of criminal law and the law of arrest, search and seizure; or has been employed as a full-time sworn public peace officer for a period of not less than one (1) year within the past five (5) years, and has never been discharged for cause from employment as a sworn public peace officer; or has been employed in a full-time capacity as a military policeman engaged in law enforcement for the United States armed forces for a period of not less than one (1) year within the past five (5) years; or has successfully completed a written, oral and practical examination approved by the council and dealing comprehensively with the subject matter of criminal law and the law of arrest, search and seizure; and

3. Demonstrates, in written and practical examinations approved by the council, knowledge of and proficiency in firearms safety, range firing, the moral and legal aspects of firearms use, and first aid. Provided, however, that all special local peace officers formally commissioned under KRS 61.360 and with unexpired commissions on December 31, 1976 shall be deemed to have met the requirements of these subsections.

Section 4. KRS 196.610 is amended to read as follows:

The Interstate Corrections Compact is hereby enacted into law and entered into by this state with any other states legally joining therein in the form substantially as follows:

INTERSTATE CORRECTIONS COMPACT

ARTICLE I

Purpose and Policy

The party states, desiring by common action to fully utilize and improve their institutional facilities and provide adequate programs for the confinement, treatment and rehabilitation of various types of offenders, declare that it is the policy of each of the party states to provide such facilities and programs on a basis of cooperation with one another, thereby serving the best interests of such offenders and of society and effecting economies in capital expenditure and operational costs. The purpose of this compact is to provide for the mutual development and execution of such programs of cooperation for the confinement, treatment and rehabilitation of offenders with the most economical use of human and material resources.

ARTICLE II

Definitions

As used in this compact, unless the context clearly requires otherwise:

(a) "State" means a state of the United States; the United States of America; a territory or possession of the United States; the District of Columbia; the Commonwealth of Puerto Rico.

(b) "Sending state" means a state party to this compact in which conviction or court commitment was had.

(c) "Receiving state" means a state party to this compact to which an inmate is sent for confinement other than a state in which conviction or court commitment was had.

(d) "Inmate" means a male or female offender who is committed, under sentence to or confined in a penal or correctional institution.

(e) "Institution" means any penal or correctional facility, including but not limited to a facility for the mentally ill or mentally *retarded* [~~defective~~], in which inmates as defined in (d) above may lawfully be confined.

ARTICLE III

Contracts

(a) Each party state may make one or more contracts with any one or more of the other party states for the confinement of inmates on behalf of a sending state in institutions situated within receiving states. Any such contract shall provide for:

1. Its duration.

2. Payments to be made to the receiving state by the sending state for inmate maintenance, extraordinary medical and dental expenses, and any participation in or receipt by inmates of rehabilitative or correctional services, facilities, programs or treatment not reasonably included as part of normal maintenance.

3. Participation in programs of inmate employment, if any; the disposition or crediting of any payments received by inmates on account thereof; and the crediting of proceeds from or disposal of any products resulting therefrom.

4. Delivery and retaking of inmates.

5. Such other matters as may be necessary and appropriate to fix the obligations, responsibilities and rights of the sending and receiving states.

(b) The terms and provisions of this compact shall be a part of any contract entered into by the authority of or pursuant thereto, and nothing in any such contract shall be inconsistent therewith.

ARTICLE IV

Procedures and Rights

(a) Whenever the duly constituted authorities in a state party to this compact, and which has entered into a contract pursuant to article III, shall decide that confinement in, or transfer of an inmate to, an institution within the territory of another party state is necessary or desirable in order to provide adequate quarters and care or an appropriate program of rehabilitation or treatment, said officials may direct that the confinement be within an institution within the territory of said other party state, the receiving state to act in that regard solely as agent for the sending state.

(b) The appropriate officials of any state party to this compact shall have access, at all reasonable times, to any institution in which it has a contractual right to confine inmates for the purpose of inspecting the facilities thereof and visiting such of its inmates as may be confined in the institution.

(c) Inmates confined in an institution pursuant to the terms of this compact shall at all times be subject to the jurisdiction of the sending state and may at any time be removed therefrom for transfer to a prison or other institution within the sending state, for transfer to another institution in which the sending state may have a contractual or other right to confine inmates, for release on probation or parole, for discharge, or for any other purpose permitted by the laws of the sending state; provided that the sending state shall continue to be obligated to such payments as may be required pursuant to the terms of any contract entered into under the terms of Article III.

(d) Each receiving state shall provide regular reports to each sending state on the inmates of that sending state in institutions pursuant to this compact including a conduct record of each inmate and certify said record to the official designated by the sending state, in order that each inmate may have official review of his or her record in determining and altering the disposition of said inmate in accordance with the law which may obtain in the sending state and in order that the same may be a source of information for the sending state.

(e) All inmates who may be confined in an institution pursuant to the provisions of this compact shall be treated in a reasonable and humane manner and shall be treated equally with such similar inmates of the receiving state as may be confined in the same institution. The fact of confinement in a receiving state shall not deprive any inmate so confined of any legal rights which said inmate would have had if confined in an appropriate institution of the sending state.

(f) Any hearing or hearings to which an inmate confined pursuant to this compact may be entitled by the laws of the sending state may be had before the appropriate authorities of the sending state, or of the receiving state if authorized by the sending state. The receiving state shall provide adequate facilities for such hearings as may be conducted by the appropriate officials of a sending state. In the event such hearing or hearings are had before officials of the receiving state, the governing law shall be that of the sending state and a record of the hearing or hearings as prescribed by the sending state shall be made. Said record together with any recommendations of the hearing officials shall be transmitted forthwith to the official or officials before whom the hearing would have been had if it had taken place in the sending state. In any and all proceedings had pursuant to the provisions of this subdivision, the officials of the receiving state shall act solely as agents of the sending state and no final determination shall be made in any matter except by the appropriate officials of the sending state.

(g) Any inmate confined pursuant to this compact shall be released within the territory of the sending state unless the inmate, and the sending and receiving states, shall agree upon release in some other place. The sending state shall bear the cost of such return to its territory.

(h) Any inmate confined pursuant to the terms of this compact shall have any and all rights to participate in and derive any benefits or incur or be relieved of any obligations or have such obligations modified or his status changed on account of any action or proceeding in which he could have participated if confined in any appropriate institution of the sending state located within such state.

(i) The parent, guardian, trustee, or other person or persons entitled under the laws of the sending state to act for, advise, or otherwise function with respect to any inmate shall not be deprived of or restricted in his exercise of any power in respect of any inmate confined pursuant to the terms of this compact.

ARTICLE V

Acts Not Reviewable in Receiving State: Extradition

(a) Any decision of the sending state in respect of any matter over which it retains jurisdiction pursuant to this compact shall be conclusive upon and not reviewable within the receiving state, but if at the time the sending state seeks to remove an inmate from an institution in the receiving state there is pending against the inmate within such state any criminal charge or if the inmate is formally accused of having committed within such state a criminal offense, the inmate shall not be returned without the consent of the receiving state until discharged from prosecution or other form of proceeding, imprisonment or detention for such offense. The duly accredited officers of the sending state shall be permitted to transport inmates pursuant to this compact through any and all states party to this compact without interference.

(b) An inmate who escapes from an institution in which he is confined pursuant to this compact shall be deemed a fugitive from the sending state and from the state in which the institution is situated. In the case of an escape to a jurisdiction other than the sending or receiving state, the responsibility for institution of extradition or rendition proceedings shall be that of the sending state, but nothing contained herein shall be construed to prevent or affect the activities of officers and agencies of any jurisdiction directed toward the apprehension and return of an escapee.

ARTICLE VI

Federal Aid

Any state party to this compact may accept federal aid for use in connection with any institution or program, the use of which is or may be affected by this compact or any contract pursuant hereto and any inmate in a receiving state pursuant to this compact may participate in any such federally aided program or activity for which the sending and receiving states have made contractual provisions, provided that if such program or activity is not part of the customary correctional regimen the express consent of the appropriate official of the sending state shall be required therefor.

ARTICLE VII

Entry Into Force

This compact shall enter into force and become effective and binding upon the states so acting when it has been enacted into the law by any two states. Thereafter, this compact shall enter into force and become effective and binding as to any other of said states upon similar action by such state.

ARTICLE VIII

Withdrawal and Termination

This compact shall continue in force and remain binding upon a party state until it shall have enacted a statute repealing the same and providing for the sending of formal written notice of withdrawal from the compact to the appropriate officials of all other party states. An actual withdrawal shall not take effect until one year after the notices provided in said statute have been sent. Such withdrawal shall not relieve the withdrawing state from its obligations assumed hereunder prior to the effective date of withdrawal. Before the effective date of withdrawal, a withdrawing state shall remove to its territory, at its own expense, such inmates as it may have confined pursuant to the provisions of this compact.

ARTICLE IX

Other Arrangements Unaffected

Nothing contained in this compact shall be construed to abrogate or impair any agreement or other arrangements which a party state may have with a non-party state for the confinement, rehabilitation or treatment of inmates nor to repeal any other laws of a party state authorizing the making of cooperative institutional arrangements.

ARTICLE X

Construction and Severability

The provisions of this compact shall be liberally construed and shall be severable. If any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any participating state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state participating therein, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the state affected as to all severable matters.

Section 5. KRS 200.090 is amended to read as follows:

All physically handicapped, delinquent, neglected, dependent, *mentally ill or mentally retarded children* [~~or defective children, whether such defect be mental or physical~~], under eighteen (18) years of age, are included within the provisions of KRS 200.080 to 200.120, except children who are crippled or solely and permanently blind or solely and permanently deaf. The provisions of KRS 200.080 to 200.120 shall not apply to children whose specific defect or condition has already been provided for through an existing agency.

Section 6. KRS 210.005 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Mentally retarded *person*" *means*[~~" and "mentally defective" have the same meaning and are used interchangeably as one (1) description of~~] a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(2) "Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association.

(3) "Chronic" means that clinically significant symptoms of mental illness have persisted in the individual for a continuous period of at least two (2) years, or that the individual has been hospitalized for mental illness more than once in the last two (2) years, and that the individual is presently significantly impaired in his ability to function socially or occupationally, or both.

Section 7. KRS 210.360 is amended to read as follows:

(1) When a person who has been twice previously convicted of a felony, is indicted by a grand jury as a persistent felony offender, the circuit clerk of the court in which he is indicted shall give notice of the indictment to the secretary of the cabinet for human resources within seven (7) days after the indictment is returned by the grand jury. The secretary shall cause such person to be examined by a psychiatrist or licensed clinical psychologist already in the employ of the cabinet, to determine his mental condition and the existence of any mental *illness* [~~disease~~] or *retardation* [~~defect~~] which would affect his criminal responsibility. This examination shall be made without expense other than the amount to cover necessary travel, as provided by law for any other employe of the state traveling on official business.

(2) The psychiatrist or licensed clinical psychologist making the examination shall submit a written report of his findings to the judge of the court having jurisdiction, who shall make the report available to the prosecuting attorney and the attorney for the defendant.

(3) The secretary may decline to cause such examination to be made if the number of psychiatrists or licensed clinical psychologists on duty in the cabinet is insufficient to spare one from his regular official duties, in which event the secretary shall notify the clerk of the circuit court to that effect within three (3) days.

Section 8. KRS 504.020 is amended to read as follows:

(1) A person is not responsible for criminal conduct if at the time of such conduct, as a result of mental *illness* [~~disease~~] or *retardation* [~~defect~~], he lacks substantial capacity either to appreciate the criminality of his conduct or to conform his conduct to the requirements of law.

(2) As used in this chapter, the term "mental *illness* [~~disease~~] or *retardation* [~~defect~~]" does not include an abnormality manifested only by repeated criminal or otherwise anti-social conduct.

(3) A defendant may prove mental *illness* [~~disease~~] or *retardation* [~~defect~~], as used in this section, in exculpation of criminal conduct.

Section 9. KRS 510.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Deviate sexual intercourse" means any act of sexual gratification between persons not married to each other involving the sex organs of one (1) person and the mouth or anus of another;

(2) "Forcible compulsion" means physical force that overcomes earnest resistance or a threat, express or implied, that overcomes earnest resistance by placing a person in fear of immediate death or physical injury to himself or another person or in fear that he or another person will be immediately kidnapped;

(3) "Marriage" means persons living together as man and wife regardless of the legal status of their relationship. Spouses are not married to one another for purposes of this chapter if either or both spouses have filed a petition under KRS Chapter 403 and they are living apart;

(4) *"Mental illness" means a diagnostic term that covers many clinical categories, typically including behavioral or psychological symptoms, or both, along with impairment of personal and social function, and specifically defined and clinically interpreted through reference to criteria contained in the Diagnostic and Statistical Manual of Mental Disorders (Third Edition) and any subsequent revision thereto, of the American Psychiatric Association* [~~"Mentally defective" means that a person suffers from a mental disease or defect which renders him incapable of appraising the nature of his conduct~~];

(5) *"Mentally retarded person" means a person with significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period, as defined in KRS Chapter 202B;*

(6) "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct as a result of the influence of a controlled or intoxicating substance administered to him without his consent or as a result of any other act committed upon him without his consent;

(7)[~~(6)~~] "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act;

(8)[~~(7)~~] "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor done for the purpose of gratifying the sexual desire of either party; and

(9)[~~(8)~~] "Sexual intercourse" means sexual intercourse in its ordinary sense but is limited to sexual intercourse between persons not married to each other. Sexual intercourse occurs upon any penetration, however slight; emission is not required.

Section 10. KRS 510.020 is amended to read as follows:

(1) Whether or not specifically stated, it is an element of every offense defined in this chapter that the sexual act was committed without consent of the victim.

(2) Lack of consent results from:

(a) Forcible compulsion; or

(b) Incapacity to consent; or

(c) If the offense charged is sexual abuse, any circumstances in addition to forcible compulsion or incapacity to consent in which the victim does not expressly or impliedly acquiesce in the actor's conduct.

(3) A person is deemed incapable of consent when he is:

(a) Less than 16 years old; or

(b) Mentally *retarded or suffers from a mental illness* [~~defective~~]; or

(c) Mentally incapacitated; or

(d) Physically helpless.

Section 11. KRS 510.030 is amended to read as follows:

In any prosecution under this chapter in which the victim's lack of consent is based solely on his incapacity to consent because he was less than sixteen (16) years old, mentally *retarded* [~~defective~~], mentally incapacitated or physically helpless, the defendant may prove in exculpation that at the time he engaged in the conduct constituting the offense he did not know of the facts or conditions responsible for such incapacity to consent.

Section 12. KRS 510.060 is amended to read as follows:

(1) A person is guilty of rape in the third degree when:

(a) He engages in sexual intercourse with another person who is incapable of consent because he is mentally *retarded* [~~defective~~] or mentally incapacitated; or

(b) Being twenty-one (21) years old or more, he engages in sexual intercourse with another person less than sixteen (16) years old.

(2) Rape in the third degree is a Class D felony.

Section 13. KRS 510.090 is amended to read as follows:

(1) A person is guilty of sodomy in the third degree when:

(a) He engages in deviate sexual intercourse with another person who is incapable of consent because he is mentally *retarded* [~~defective~~] or mentally incapacitated; or

(b) Being twenty-one (21) years old or more, he engages in deviate sexual intercourse with another person less than sixteen (16) years old.

(2) Sodomy in the third degree is a Class D felony.

Section 14. KRS 510.120 is amended to read as follows:

(1) A person is guilty of sexual abuse in the second degree when:

(a) He subjects another person to sexual contact who is incapable of consent because he is mentally *retarded* [~~defective~~] or mentally incapacitated; or

(b) He subjects another person who is less than fourteen (14) years old to sexual contact.

(2) Sexual abuse in the second degree is a Class A misdemeanor.

Section 15. KRS 530.080 is amended to read as follows:

(1) A person is guilty of endangering the welfare of an incompetent person when he knowingly acts in a manner which results in an injury to the physical or mental welfare of a person who is unable to care for himself because of mental *illness* [~~disease~~] or *retardation* [~~defect~~].

(2) Endangering the welfare of an incompetent person is a Class A misdemeanor.

Section 16. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and

aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

6. The offender's act or acts of killing were intentional and resulted in multiple deaths; and

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties;

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental *illness* [~~disease~~] or *retardation* [~~defect~~] or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime: and

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

Section 17. KRS 615.030 is amended to read as follows:

The interstate compact on the placement of children is hereby enacted into law and entered into with all other jurisdictions legally joined therein in form substantially as follows:

ARTICLE I Purpose and Policy

It is the purpose and policy of the party states to cooperate with each other in the interstate placement of children to the end that:

(a) Each child requiring placement shall receive the maximum opportunity to be placed in a suitable environment and with persons or institutions having appropriate qualifications and facilities to provide a necessary and desirable degree and type of care.

(b) The appropriate authorities in a state where a child is to be placed may have full opportunity to ascertain the circumstances of the proposed placement, thereby promoting full compliance with applicable requirements for the protection of the child.

(c) The proper authorities of the state from which the placement is made may obtain the most complete information on the basis of which to evaluate a projected placement before it is made.

(d) Appropriate jurisdictional arrangements for the care of children will be promoted.

ARTICLE II Definitions

As used in this compact:

(a) "Child" means a person who, by reason of minority, is legally subject to parental, guardianship or similar control.

(b) "Sending agency" means a party state, officer or employe thereof; a subdivision of a party state, or officer or employe thereof; a court of a party state; a person, corporation, association, charitable agency or other entity which sends, brings, or causes to be sent or brought any child to another party state.

(c) "Receiving state" means the state to which a child is sent, brought, or caused to be sent or brought, whether by public authorities or private persons or agencies, and whether for placement with state or local public authorities or for placement with private agencies or persons.

(d) "Placement" means the arrangement for the care of a child in a family free or boarding home or in a child-caring agency or institution but does not include any institution caring for the mentally ill, mentally *retarded* [~~defective~~] or epileptic or any institution primarily educational in character, and any hospital or other medical facility.

ARTICLE III Conditions for Placement

(a) No sending agency shall send, bring, or cause to be sent or brought into any other party state any child for placement in foster care or as a preliminary to a possible adoption unless the sending agency shall comply with each and every requirement set forth in this article and with the applicable laws of the receiving state governing the placement of children therein.

(b) Prior to sending, bringing or causing any child to be sent or brought into a receiving state for placement in foster care or as a preliminary to a possible adoption, the sending agency shall furnish the appropriate public authorities in the receiving state written notice of the intention to send, bring, or place the child in the receiving state. The notice shall contain:

(1) The name, date and place of birth of the child.

(2) The identity and address or addresses of the parents or legal guardian.

(3) The name and address of the person, agency or institution to or with which the sending agency proposes to send, bring, or place the child.

(4) A full statement of the reasons for such proposed action and evidence of the authority pursuant to which the placement is proposed to be made.

(c) Any public officer or agency in a receiving state which is in receipt of a notice pursuant to paragraph (b) of this article may request of the sending agency, or any other appropriate officer or agency of or in the sending agency's state, and shall be entitled to receive therefrom, such supporting or additional information as it may deem necessary under the circumstances to carry out the purpose and policy of this compact.

(d) The child shall not be sent, brought, or caused to be sent or brought into the receiving state until the appropriate public authorities in the receiving state shall notify the sending agency, in writing, to the effect that the proposed placement does not appear to be contrary to the interests of the child.

ARTICLE IV Penalty for Illegal Placement

This sending, bringing, or causing to be sent or brought into any receiving state of a child in violation of the terms of this compact shall constitute a violation of the laws respecting the placement of children of both the state in which the sending agency is located or from which it sends or brings the child and of the receiving state. Such violation may be punished or subjected to penalty in either jurisdiction in accordance with its laws. In addition to liability for any such punishment or penalty, any such violation shall constitute full and sufficient grounds for the suspension or revocation of any license, permit, or other legal authorization held by the sending agency which empowers or allows it to place or care for children.

ARTICLE V Retention of Jurisdiction

(a) The sending agency shall retain jurisdiction over the child sufficient to determine all matters in relation to the custody, supervision, care, treatment and disposition of the child which it would have had if the child had remained in the sending agency's state, until the child is adopted, reaches majority, becomes self-supporting or is discharged with the concurrence of the appropriate authority in the receiving state. Such jurisdiction shall also include the power to effect or cause the return of the child or its transfer to another location and custody pursuant to law. The sending agency shall continue to have financial responsibility for support and maintenance of the child during the period of the placement. Nothing contained herein shall defeat a claim of jurisdiction by a receiving state sufficient to deal with an act of delinquency or crime committed therein.

(b) When the sending agency is a public agency, it may enter into an agreement with an authorized public or private agency in the receiving state providing for the performance of one (1) or more services in respect of such case by the latter as agent for the sending agency.

(c) Nothing in this compact shall be construed to prevent a private charitable agency authorized to place children in the receiving state from performing services or acting as agent in that state for a private charitable agency of the sending state; nor to prevent the agency in the receiving state from discharging financial responsibility for the support and maintenance of a child who has been placed on behalf of the sending agency without relieving the responsibility set forth in paragraph (a) hereof.

ARTICLE VI Institutional Care of Delinquent Children

A child adjudicated delinquent may be placed in an institution in another party jurisdiction pursuant to this compact but no such placement shall be made unless the child is given a court hearing on notice to the parent or guardian with opportunity to be heard, prior to his being sent to such other party jurisdiction for institutional care and the court finds that:

(1) Equivalent facilities for the child are not available in the sending agency's jurisdiction; and

(2) Institutional care in the other jurisdiction is in the best interest of the child and will not produce undue hardship.

ARTICLE VII Compact Administrator

The executive head of each jurisdiction party to this compact shall designate an officer who shall be general coordinator of activities under this compact in his jurisdiction and who, acting jointly with like officers of other party jurisdictions, shall have power to promulgate rules and regulations to carry out more effectively the terms and provisions of this compact.

ARTICLE VIII Limitations

This compact shall not apply to:

(a) The sending or bringing of a child into a receiving state by his parent, stepparent, grandparent, adult brother or sister, adult uncle or aunt, or his guardian and leaving the child with any such relative or non-agency guardian in the receiving state.

(b) Any placement, sending or bringing of a child into a receiving state pursuant to any other interstate compact to which both the state from which the child is sent or brought and the receiving state are party, or to any other agreement between said states which has the force of law.

ARTICLE IX Enactment and Withdrawal

This compact shall be open to joinder by any state, territory or possession of the United States, the District of Columbia, The Commonwealth of Puerto Rico, and, with the consent of Congress, the Government of Canada or any province thereof. It shall become effective with respect to any such jurisdiction when such jurisdiction has enacted the same into law. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until two (2) years after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other party jurisdiction.

Withdrawal of a party state shall not affect the rights, duties and obligations under this compact of any sending agency therein with respect to a placement made prior to the effective date of withdrawal.

ARTICLE X Construction and Severability

The provisions of this compact shall be liberally construed to effectuate the purposes thereof. The provisions of this compact shall be severable and if any phrase, clause, sentence or provision of this compact is declared to be contrary to the constitution of any party state or of the United States or the applicability thereof to any government, agency, person, or circumstance is held invalid, the validity of the remainder of this compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this compact shall be held contrary to the constitution of any state party thereto, the compact shall remain in full force and effect as to the remaining states and in full force and effect as to the states affected as to all severable matters.

The Committee Amendment No. 1 to **HB 574** is as follows:

Amend printed copy of **HB 574** on page 2, line 25, by deleting the word "*services*" and inserting in lieu thereof the word "*counseling*"

HB 660, AN ACT relating to underground coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.127 is amended to read as follows:

(1) A certified emergency medical technician trained as defined by the commissioner with such training provided for by the commissioner shall be employed at every underground coal mine with *two (2)* [~~twenty-five (25)~~] or more employes engaged in the extraction, production, or preparation of coal. An additional emergency medical technician shall be employed for every additional one hundred (100), or majority fraction thereof, employes who are engaged in the extraction, production, or preparation of coal. Any such mine without a certified emergency medical technician trained as defined by the commissioner shall be allowed ninety (90) days to employ a certified emergency medical technician and may continue to operate during this ninety (90) day period. If these emergency medical technicians are also employed in other capacities at the coal mine, they shall be available for quick response to emergencies and shall have available to them at all times the equipment necessary to respond to emergencies, as prescribed by the commissioner.

(2) If the operator does not have a sufficient number of certified emergency medical technicians in his employ to meet the requirements of subsection (1) of this section, persons to be trained as emergency medical technicians shall be selected from the operator's existing employes by the operator from the employes engaged in the extraction, production, or preparation of coal. Persons so selected who attend training requisite to becoming an emergency medical technician shall be paid their regular wages during training.

(3) Certified emergency medical technicians shall receive eight (8) hours of annual retraining during which they shall receive their regular wages.

HB 816, AN ACT relating to blood donations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217 IS CREATED TO READ AS FOLLOWS:

Any person seventeen (17) years of age or older may donate blood in a voluntary blood program, which is not operated for profit, without consent of the person's parent or guardian. Before soliciting blood donations from students in high schools, joint vocational schools, or technical schools, a blood program, in cooperation with school authorities, shall make reasonable efforts to notify the parents or guardians of the students that the students will be requested to donate blood.

HB 883, AN ACT relating to health facilities and services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in this Act the following definitions shall apply:

(1) "Prescribed pediatric extended care center" hereinafter referred to as a "PPEC center," means any building or other place, whether operated for profit or not, which undertakes through its ownership or management to provide, for a part of the day, basic services to three (3) or more medically dependent or technologically dependent children who are not related to the owner or operator by blood, marriage, or adoption and who require such services.

(2) "Basic services" includes, but is not limited to, development, implementation, and monitoring of a comprehensive protocol of care, developed in conjunction with the parent or guardian, which specifies the medical, nursing, psychosocial, and developmental therapies required by the medically dependent or technologically dependent child served as well as the caregiver training needs of the child's legal guardian.

(3) "Cabinet" means the cabinet for human resources;

(4) "Owner or operator" means any individual who has general administrative charge of a PPEC center.

(5) "Medical records" means medical records maintained in accordance with accepted professional standards and practices as specified in the administrative regulations.

(6) "Medically dependent or technologically dependent child" means a child who because of a medical condition requires continuous therapeutic interventions or skilled nursing supervision which must be prescribed by a licensed physician and administered by, or under the direct supervision of, a licensed registered nurse.

(7) "Supportive services or contracted services" include, but are not limited to, speech therapy, occupational therapy, physical therapy, social work, developmental, child life, and psychological services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

For the administration of this Act, facilities to be licensed by the cabinet shall include all PPEC centers as defined in this Act except a facility, institution, or other place operated by the federal government or any agency thereof.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) It is unlawful to operate or maintain a PPEC center without first obtaining a certificate of need from the commission for health economics control in Kentucky and a license for the PPEC center from the cabinet. The cabinet is responsible for licensing PPEC centers in accordance with the provisions of KRS Chapter 216B.

(2) Separate licenses are required for PPEC centers maintained on separate premises, even though they are operated under the same management. Separate licenses are not required for separate buildings on the same grounds.

(3) The cabinet for human resources may deny, revoke, modify or suspend a license in accordance with KRS 216B.105.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) On or before July 1, 1989, the cabinet for human resources shall promulgate administrative regulations to implement the provisions of this Act, which shall include reasonable and fair standards. Such standards shall relate to:

(a) The assurance that PPEC services are family centered and provide individualized medical, developmental, and family training services;

(b) The maintenance of PPEC centers based upon the size of the structure and number of children, relating to plumbing, heating, lighting, ventilation, and other building conditions, including adequate space, which will ensure the health, safety, comfort, and protection from fire of the children served;

(c) The appropriate provisions of the "Life Safety Code" (NFPA-101, 1985 edition);

(d) The number and qualifications of all personnel who have responsibility for the care of the children served;

(e) All sanitary conditions within the PPEC center and its surroundings, including water supply, sewage disposal, food handling, and general hygiene, and maintenance thereof, which will ensure the health and comfort of children served;

(f) Programs and basic services promoting and maintaining the health and development of the children served and meeting the training needs of the children's legal guardians;

(g) Supportive, contracted, other operational, and transportation services; and,

(h) Maintenance of appropriate medical records, data, and information relative to the children and programs to be maintained in the facility for inspection by the cabinet.

(2) Enforcement of standards pursuant to the adoption of administrative regulations under this Act shall not take effect until six (6) months after the adoption of such administrative regulations.

HB 944. AN ACT relating to the prevention of the spread of the acquired immune deficiency syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

Any person convicted of prostitution or solicitation for purposes of prostitution shall be tested for infection with the human immunodeficiency virus (HIV) or any other identified causative agent of the acquired immune deficiency syndrome. The testing shall consist of such test as may be approved by the U.S. Food and Drug Administration and shall be administered by the local health department of the city or county in which the person was arrested. If the convicted person tests negative for infection, the person shall be issued a document indicating such test results and the date of the results and further the person shall periodically report to the local health department for testing for HIV infection at intervals established by the cabinet for human resources under administrative regulation which shall be issued pursuant to KRS Chapter 13A. If such convicted person tests confirmatory positive for infection, the cabinet for human resources may, under the provisions of KRS 211.080 and 214.020, take whatever steps are necessary to protect the public against the spread of the human immunodeficiency virus or any other identified causative agent of the acquired immune deficiency syndrome.

SECTION 2. A NEW SECTION OF KRS CHAPTER 213 IS CREATED TO READ AS FOLLOWS:

Any person required under Section 1 of this Act to be tested for infection with the human immunodeficiency virus or any other identified causative agent of the acquired immune deficiency syndrome and who fails to report for such testing shall, for the first failure to report, be found guilty of a class A misdemeanor. For each subsequent failure to report for testing, such person shall be found guilty of a class D felony.

The Committee Amendment No. 1 to **HB 944** is as follows:

Amend printed copy of **HB 944** on page 2, line 4, after the word "syndrome." by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 529 IS CREATED TO READ AS FOLLOWS:

Half of all proceeds of fines collected pursuant to KRS 529.020 shall be placed in a trust and agency account which the cabinet for human resources shall disburse to local health departments solely as reimbursement for the testing of convicted prostitutes for the infection with the human immunodeficiency virus (HIV) or any other causative agent of the acquired immune deficiency syndrome."

On page 2, line 5,

After the word "SECTION" by deleting the number "2" and inserting in lieu thereof the number "3"

The Committee Amendment No. 2 to **HB 944** is as follows:

Amend printed copy of **HB 944** on page 1, line 3, by deleting the words *"or solicitation for purposes of prostitution"*

HJR 94. A JOINT RESOLUTION recognizing homelessness as a statewide problem and directing all appropriate state agencies to review their priority setting processes, resource allocations and programs and services to insure that the needs of the homeless are met.

WHEREAS, staff of the Legislative Research Commission have estimated that 28,572 homeless persons were sheltered throughout Kentucky during calendar year 1986; and

WHEREAS, most sheltered homeless people during 1986 were residents of Kentucky; and

WHEREAS, 90 percent of the adult homeless persons in Kentucky were found to be unemployed;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky General Assembly recognizes homelessness as a statewide problem and declares an increased commitment on the part of the Commonwealth of Kentucky to address the issues related to homelessness.

Section 2. That all state agencies which administer programs affecting the homeless are directed to review their priority setting processes, resource allocations and programs and services to insure that the needs of the homeless are considered.

HCR 124. A CONCURRENT RESOLUTION creating a legislative task force to study the impact of parental and family medical leave on both the public and private sector, and declaring an emergency.

WHEREAS, the United States of America is the only industrialized nation without a uniform parental and family medical leave policy; and

WHEREAS, greater emphasis needs to be placed on the need to reconcile the conflicting demands between work and family responsibilities, especially those encountered by women; and

WHEREAS, it is recognized that demographic and economic changes in American society are driving private and public sector employers to reevaluate the design, structure, and goals of their employe benefit packages; and

WHEREAS, it is recognized that flexible hours, the use of sick leave to care for children, more part-time work, pregnancy leaves for mothers and fathers, and other innovations are expensive; and

WHEREAS, seven (7) out of ten (10) American workers have primary child care responsibilities and relatives with serious health conditions; and

WHEREAS, current federal and state laws, regulations, rules, and policies often force employes to choose between economic security and family responsibilities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission establish a Task Force on Parental and Family Medical Leave commencing May 1, 1988, to access the fiscal impact of such leave on public and private sector employers. The task force shall be appointed by the Legislative Research Commission and shall consist of the following:

(1) Two (2) members of the Kentucky general assembly;

(2) A representative of the Kentucky commission on women;

(3) A representative of the Kentucky chapter of the international personnel management association;

(4) A representative of labor;

(5) A representative of management;

(6) The commissioner of the Kentucky department of personnel, or his designee;

(7) The secretary of the Kentucky labor cabinet, or his designee; and

(8) The secretary of the Kentucky cabinet for human resources or his designee.

Section 2. That the members of the Task Force on Parental and Family Medical Leave select a chairperson and a vice-chairperson from its membership.

Section 3. That the Task Force on Parental and Family Medical Leave meet regularly upon the call of its chairperson, or upon the request of at least five (5) of its members. All meetings shall be open to the public as provided in KRS 61.805 to 61.850. At least seven (7) days in advance of such meetings, notice shall be given in writing to each task force member. Five (5) members shall constitute a quorum for the transaction of business, and the task force shall keep records and minutes of its business and official actions. Such records shall be public records and open to public inspection as provided in KRS 61.870 to 61.884.

Section 4. That the Task Force on Parental and Family Medical Leave, with the assistance of appropriate Legislative Research Commission staff with expertise in personnel law shall:

(1) Investigate parental and family medical leave trends in the United States and foreign countries;

(2) Determine the effect of these trends on public and private sector employers in Kentucky; and

(3) Make recommendations, no later than October 1, 1989, concerning parental and family medical leave to the Governor and the Legislative Research Commission for transmittal to its interim joint committee of appropriate jurisdiction.

Section 5. That staff services to be utilized in completing this study are estimated to be $25,000. These services shall be provided from the regular commission budget and are subject to the limitation and other research responsibilities of the commission.

Section 6. Whereas, the Task Force on Parental and Medical Leave needs the maximum amount of time possible to complete its charge, an emergency is declared to exist, and this resolution shall become effective upon its passage and signature of the Governor.

HCR 125. A CONCURRENT RESOLUTION directing the Legislative Research Commission to appoint a Task Force to study teenage pregnancy in Kentucky and develop prevention and intervention recommendations related thereto.

WHEREAS, in 1986 there were an estimated 14,000 teenage pregnancies in Kentucky resulting in 9,028 live births, 175 of which were to teens under the age of 15; and

WHEREAS, Kentucky had the third highest overall percentage of teenage births nationwide in 1984; and

WHEREAS, the Cabinet for Human Resources estimates that in a year's time at least $25,000,000 is spent on pregnant and parenting teens and their children and on preventing teen pregnancy; and

WHEREAS, only 20% of pregnant teens age 17 and under finish high school, those who become fathers before age 18 are about 40% less likely to graduate from high school, and only one in five is employed among high school dropouts;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to appoint a task force to study teenage pregnancy in Kentucky consisting of the following:

(1) No more than 16 members comprised of but not limited to representatives of the Cabinet for Human Resources, Department for Social Services, Department for Maternal and Child Health and the Department for Social Insurance; a representative of the Department of Education; a representative of the protestant religions, a representative of the Catholic religion and a representative of the Jewish religion; a pro-life advocate; a pro-choice advocate; and service providers for pregnant and parenting teens.

(2) The task force shall also consist of 2 senators appointed by the President Pro Tempore of the Senate, one of whom is a member of the Health and Welfare Committee and 2 representatives appointed by the Speaker of the House of Representatives, one of whom is a member of the Health and Welfare Committee.

Section 2. All members of the task force as set forth in Section 1 (1) and (2) of this resolution shall be appointed no later than July 15, 1988.

Section 3. The task force shall:

(1) Examine the causes, related factors and effects of teenage pregnancy in Kentucky;

(2) Examine teenage pregnancy and parenting programs to identify successful program components; and

(3) Make recommendations to assist in reducing teenage pregnancy in Kentucky.

Section 4. Staff services to be utilized in completing this study shall be provided from the regular Legislative Research Commission Budget estimated to be $25,000, subject to the limitations and other research responsibilities of the commission.

Section 5. The task force shall report its findings and recommendations to the Interim Joint Committee on Health and Welfare no later than June 1, 1989.

HJR 132, A JOINT RESOLUTION directing the Cabinet for Human Resources to consult with shelter providers of the homeless to develop and implement specialized outreach programs to assist the homeless.

WHEREAS, the Legislative Research Commission's study on homelessness in Kentucky estimated 35,887 persons were homeless during 1987, increasing 26% from 1986; and

WHEREAS, the Legislative Research Commission's study on homelessness in Kentucky identified 90% of the homeless population as unemployed and 72% of the homeless population with few job skills; and

WHEREAS, the Legislative Research Commission's study on homelessness in Kentucky identified 37% of the homeless population as alcoholic and 12% of the homeless population as drug addicted; and

WHEREAS, the Legislative Research Commission's study on homelessness in Kentucky found alcohol and drug treatment as two services least available to the homeless population;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Cabinet for Human Resources is directed to consult with shelter providers for the homeless for the development and implementation of specialized outreach programs addressing the needs of unemployed homeless persons and homeless substance abusers.

Section 2. That the Cabinet for Human Resources report to the Legislative Research Commission no later than January 1, 1989, on any specialized outreach programs developed for alcoholic homeless persons and unemployed homeless persons.

SB 88, AN ACT relating to goat milk.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 217C IS CREATED TO READ AS FOLLOWS:

The secretary shall issue administrative regulations allowing the sale of goat milk which has not been pasteurized.

The Committee Amendment No. 1 to **SB 88** is as follows:

Amend printed copy of **SB 88** on page 1, line 4, by inserting after the word "*milk*" the following words: "*, upon written recommendation of a physician.*"

SB 184, AN ACT relating to death certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 213.080 is amended to read as follows:

(1) The certificate of death shall be prescribed and furnished by the cabinet for human resources and shall be designed with due consideration for national uniformity. It shall be written legibly in unfading ink or typewritten. The personal and statistical particulars shall be authenticated by the signature of the informant, who may be any competent person acquainted with the facts. The statement of facts relating to the disposition of the body shall be signed by the undertaker or person acting as such.

(2) The medical certificate shall be made and signed by the physician, if any, last in attendance on the deceased, within *five (5) working* [~~fifteen (15)~~] days of receipt of the certificate of death from the responsible undertaker or person acting as undertaker or the coroner or if an autopsy is required within thirty (30) days of the death. The physician, if any, last in attendance on the deceased shall specify the time in attendance, the time he last saw the deceased alive, and the hour of the day at which death occurred. He shall further state the cause of death, showing the course of disease or sequence of causes resulting in death, giving the primary cause and any contributory causes, and the duration of each. Indefinite and unsatisfactory terms, indicating only symptoms of disease or conditions resulting from disease, will not be sufficient for issuing a burial or removal permit. Any certificate not containing the terms defined by the cabinet for human resources shall be returned to the physician for correction and definition. Where death may be the result of either disease or violence, the causes shall be carefully defined, and if the result of violence its nature shall be stated, and whether it appears to have been accidental, suicidal or homicidal. In case of deaths in hospitals, institutions or away from home, the physician shall furnish the information required in this section and shall state where, in his opinion, the disease was contracted.

(3) The physician, dentist, chiropractor, or coroner who certifies to the cause of death shall return the certificate to the funeral director, or person acting as such, who, in turn, shall file the certificate directly with the office of vital statistics. Any certified copies of the record requested at the time of filing shall be issued in not more than two (2) working days.

Section 2. KRS 213.170 is amended to read as follows:

The local registrar shall supply blank forms of certificates to persons who require them. He shall carefully examine each certificate of birth, *or* stillbirth [~~or death~~] when presented for record, to see that it has been properly made out. If the certificates are properly made out he shall sign his name as registrar in attest of the date of filing in his office. He shall also make a complete and accurate copy of each certificate, to be filed and permanently preserved in his office as the local record, in the manner directed by the cabinet for human resources. He shall on the first and fifteenth of each month transmit to the cabinet for human resources all original certificates registered by him. When a birth, *or* stillbirth [~~or death~~] certificate filed with a local registrar shows the residence of the mother or the deceased to be in another county, the registrar shall mail a copy of the certificate to the local registrar of the county of residence. If no births, stillbirths or deaths occur in any month, he shall, on the first and fifteenth of each month, report that fact to the cabinet for human resources.

(2) The office of vital statistics shall provide self-addressed, color-coded envelopes to the funeral homes in the state of Kentucky.

(3) Three (3) free verification of death statements shall be provided by the office of vital statistics for every death in the state of Kentucky.

Calendar

HB 665, **HB 856**, **HB 917**, **HB 1**, **HB 228**, **HB 630**, **HB 354**, **HB 591**, **HB 720**, **HB 765**, **HB 789**, **HB 870**, **HB 937**, **HB 290**, **HB 771**, **HB 820**, **HB 857**, **HB 902**, **HB 906**, **HB 935**, **HB 873**, **HB 874**, **SB 201**, **HB 343**, **HB 452**, **HB 552**, **HB 777** and **HCR 62** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 760 and **HB 762** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 139**, **SB 38**, **SB 175**, **HB 226**, **HB 590** and **HB 638** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:28 p.m.)

HB 226, **HB 590** and **HB 638** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day

Representative Stumbo moved that the rules be suspended to introduce and act upon a Resolution. Agreed.

HR 155, by Representatives B. Richardson and Turner: A RESOLUTION recognizing the Cordell Hull Highway.

Representative B. Richardson moved the adoption of the following **HR 155**:

HR 155. A RESOLUTION recognizing the Cordell Hull Highway.

WHEREAS, the Cordell Hull Highway is an historic artery built in 1805 and named for Franklin D. Roosevelt's Secretary of State; and

WHEREAS, this highway runs from Murfreesboro, Tennessee through Celina, Tennessee and to Cave City, Kentucky; and

WHEREAS, children traveling to school and to the 200 acre Boy Scout camp, and businessmen in Monroe County and Barren County, Kentucky find this road indispensible; and

WHEREAS, in 1987, a 43-mile stretch of this highway from Celina, Tennessee to Glasgow, Kentucky, was the site of the world's longest fair; and

WHEREAS, this historic highway is in need of modernization befitting its importance and traffic usage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives recognizes the importance and historic significance of the Cordell Hull Highway.

Section 2. That the House of Representatives urges the Kentucky Department of Transportation to take the necessary measures to upgrade this highway.

Section 3. That a copy of this resolution be sent to the Secretary of the Kentucky Department of Transportation, Barren County Judge Executive W. L. Gardner, Glasgow/Barren County Chamber of Commerce, Mayor Charlie Honeycutt of Glasgow, Sarah Bowers of the Committee for the Improvement of Route 63 and Roger Wyatt, Route 1, Mt. Hermon, Kentucky 42157.

HR 155 was adopted by voice vote.

HB 350, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Substitute to **HB 350**. Agreed.

Representative Richards moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 350**. Agreed.

Representative Richards moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 350**. Agreed.

Representative Richards moved that **HB 350**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 10, 1988 roll call on **HB 350** - Appendix A.)

HB 350, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 350**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 651, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Substitute to **HB 651**. Agreed.

Representative Mason moved the adoption of Floor Amendment No. 2 to Committee Substitute to **HB 651**. Agreed.

Representative Mason moved the adoption of Floor Amendment No. 1 to Committee Substitute to **HB 651**. Agreed.

Representative Mason moved that **HB 651**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 10, 1988 roll call on **HB 651** - Appendix A.)

HB 651, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 651**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 653, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of Floor Amendment No. 1 to **HB 653**. Agreed.

Representative O'Brien moved that **HB 653**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 1. (See March 10, 1988 roll call on **HB 653** - Appendix A.)

HB 653, as amended, was passed.

Representative O'Brien moved the adoption of Floor Title Amendment to **HB 653**. Agreed; and the title was agreed to.

Representative O'Brien moved that the vote by which **HB 653**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 293, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Floor Amendment No. 2 to **HB 293**. Agreed.

Representative Deskins moved that **HB 293**, as amended, be passed.

On the roll call the vote was: Yeas 57, Nays 31. (See March 10, 1988 roll call on **HB 293** - Appendix A.)

HB 293, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 293**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 505, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Overstreet moved the adoption of Floor Amendment No. 2 to **HB 505**. Agreed.

Representative Deskins moved that **HB 505**, as amended, be passed.

On the roll call the vote was: Yeas 54, Nays 37. (See March 10, 1988 roll call on **HB 505** - Appendix A.)

HB 505, as amended, was passed and the title agreed to.

Representative Deskins moved that the vote by which **HB 505**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 589, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 2 to **HB 589**. Agreed.

Representative M. Brown moved the adoption of Floor Amendment No. 2 to **HB 589**. Agreed.

Representative M. Brown moved the adoption of Floor Amendment No. 3 to **HB 589**. Agreed.

Representative B. Jones moved the adoption of Committee Amendment No. 1 to **HB 589**. Agreed.

Representative B. Jones moved the adoption of Floor Amendment No. 1 to **HB 589**. Rejected.

Representative Clarke moved that **HB 589**, as amended, be passed.

On the roll call the vote was: Yeas 21, Nays 70. (See March 10, 1988 roll call on **HB 589** - Appendix A.)

HB 589 was defeated.

HB 711, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Floor Amendment No. 1 to **HB 711**. Agreed.

Representative Hancock moved that **HB 711**, as amended, be passed.

On the roll call the vote was: Yeas 88, Nays 7. (See March 10, 1988 roll call on **HB 711** - Appendix A.)

HB 711, as amended, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 711**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 7, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Allen moved the adoption of Committee Substitute to **HB 7**. Agreed.

Representative Allen moved that **HB 7**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 73, Nays 13. (See March 10, 1988 roll call on **HB 7** - Appendix A.)

HB 7, by way of Committee Substitute, was passed and the title agreed to.

Representative Allen moved that the vote by which **HB 7**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 244, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Substitute to **HB 244**. Agreed.

Representative Long moved that **HB 244**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See March 10, 1988 roll call on **HB 244** - Appendix A.)

HB 244, by way of Committee Substitute, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 244**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 470, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 470**. Agreed.

Representative Little moved that **HB 470**, as amended, be passed.

On the roll call the vote was: Yeas 80, Nays 9. (See March 10, 1988 roll call on **HB 470** - Appendix A.)

HB 470, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 470**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 488 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 488** be passed.

On the roll call the vote was: Yeas 91, Nays 6. (See March 10, 1988 roll call on **HB 488** - Appendix A.)

HB 488 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 488** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 492 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 492** be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March10, 1988 roll call on **HB 492** - Appendix A.)

HB 492 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 492** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 545, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Amendment No. 1 to **HB 545**. Agreed.

Representative Burch moved that **HB 545**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 10, 1988 roll call on **HB 545** - Appendix A.)

HB 545, as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 545**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 519, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Brown moved the adoption of Committee Substitute to **HB 519**. Agreed.

Representative J. Brown moved that **HB 519**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 10, 1988 roll call on **HB 519** - Appendix A.)

HB 519, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Brown moved that the vote by which **HB 519**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

A Conference Committee Report was filed on **HB 25**.

HB 557 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 557** be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 10, 1988 roll call on **HB 557** - Appendix A.)

HB 557 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 557** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 658, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Amendment No. 1 to **HB 658**. Agreed.

Representative T. Jones moved that **HB 658**, as amended, be passed.

On the roll call the vote was: Yeas 56, Nays 36. (See March 10, 1988 roll call on **HB 658** - Appendix A.)

HB 658, as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 658**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 709, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved the adoption of the Committee Amendment No. 1 to **HB 709**. Agreed.

Representative Ridley moved that **HB 709**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 10, 1988 roll call on **HB 709** - Appendix A.)

HB 709, as amended, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 709**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 671, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of the Committee Amendment No. 2 to **HB 671**. Agreed.

Representative Long moved the adoption of the Committee Amendment No. 1 to **HB 671**. Agreed.

Representative Long moved that **HB 671**, as amended, be passed.

Representative Long moved that **HB 671**, as amended, be laid on the Clerk's Desk. Agreed.

HB 378, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Committee Substitute to **HB 378**. Agreed.

Representative Callahan moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 378**. Agreed.

Representative Callahan moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 378**. Agreed.

Representative Gregory moved the adoption of the Floor Amendment No. 4 to the Committee Substitute to **HB 378**.

Representative Callahan inquired whether Floor Amendment No. 4 was germane to the bill.

The Speaker ruled Floor Amendment No. 4 was germane.

Floor Amendment No. 4 to the Committee Substitute to **HB 378** was adopted.

Representative Worthington moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 378**. Agreed.

Representative Callahan moved that **HB 378**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 5. (See March 10, 1988 roll call on **HB 378** - Appendix A.)

HB 378, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 378**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 722, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of Committee Amendment No. 1 to **HB 722**. Agreed.

Representative M. Brown moved the adoption of Committee Amendment No. 2 to **HB 722**. Agreed.

Representative M. Brown moved that **HB 722**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 10, 1988 roll call on **HB 722** - Appendix A.)

HB 722, as amended, was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HB 722**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 728 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved that **HB 728** be passed.

On the roll call the vote was: Yeas 84, Nays 6. (See March 10, 1988 roll call on **HB 728** - Appendix A.)

HB 728 was passed and the title agreed to.

Representative Ackerson moved that the vote by which **HB 728** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 752 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cline moved that **HB 752** be passed.

On the roll call the vote was: Yeas 91, Nays 2. (See March 10, 1988 roll call on **HB 752** - Appendix A.)

HB 752 was passed and the title agreed to.

Representative Cline moved that the vote by which **HB 752** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 755, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Amendment No. 1 to **HB 755**. Agreed.

Representative LeMaster moved that **HB 755**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 10. (See March 10, 1988 roll call on **HB 755** - Appendix A.)

HB 755, as amended, was passed and the title agreed to.

Representative LeMaster moved that the vote by which **HB 755**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 841 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 841** be passed.

On the roll call the vote was: Yeas 96, Nays 1. (See March 10, 1988 roll call on **HB 841** - Appendix A.)

HB 841 was passed and the title agreed to.

Representative McBee moved that the vote by which **HB 841** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 17, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative White moved the adoption of Committee Amendment No. 1 to **HCR 17**. Agreed.

Representative White moved that **HCR 17**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 10, 1988 roll call on **HCR 17** - Appendix A.)

HCR 17, as amended, was passed and the title agreed to.

Representative White moved that the vote by which **HCR 17**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 114 taken from the Orders of the Day and ordered read at length for the third time. Representative

Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HCR 114** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 10, 1988 roll call on **HCR 114** - Appendix A.)

HCR 114 was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HCR 114** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 8 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be placed upon its passage. Agreed.

Representative Johnson moved the adoption of the following Free Conference Committee Report on **SB 8**. Agreed.

SB 8 with the following changes:

The free conference committee has met as provided in the rules of the House and Senate and hereby reports the following to be adopted:

House Committee Amendments #1 and #2 agreed by all.

Delete Section 5 in its entirety and amendments thereto.

Delete Section 7 in its entirety.

Renumber remaining sections and in-text references accordingly.

Direct the clerk, on enrollment, to make appropriate section number changes to conform with this report.

Signed by: Sen. Ed O'Daniel, Sen. David Karem, Sen. Joe Lane Travis, Rep. Louis Johnson, Rep. Jon Ackerson, Rep. Joseph Meyer.

The above-named members, in separate votes by house, all concur in the provisions of this report.

Incorporate the provisions of House Committee Amendments 1 and 2; delete Sections 5 and 7 of the bill in their entirety and renumber remaining sections and in-text references accordingly.

Representative Johnson moved that **SB 8**, as amended by the Free Conference Committee Report, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See March 10, 1988 roll call on **SB 8** - Appendix A.)

SB 8, as amended by the Free Conference Committee Report, was passed and the title agreed to.

Representative Johnson moved that the vote by which **SB 8**, as amended by the Free Conference Committee Report, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 761 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved that **HB 761** be passed.

On the roll call the vote was: Yeas 86, Nays 4. (See March 10, 1988 roll call on **HB 761** - Appendix A.)

HB 761 was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 761** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 50, with Senate Committee Substitute attached thereto,taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Substitute to **HB 50** is as follows:

HB 50, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

As used in this Act unless the context otherwise requires:

(1) "Blood" means any blood, blood product, blood component, or blood derivative including plasma.

(2) "Blood establishment" means a place of business under one (1) management at one (1) general physical location which engages in the collection, preparation, processing, labeling, packaging, and dispensing of blood or blood products to any health care facility, health service, or health care provider.

(3) "Communicable disease" means only a communicable disease which may be transmitted by blood and as set forth in any administrative regulation issued under Section 6 of this Act and pursuant to KRS Chapter 13A.

(4) "Health facility" means any health facility set forth under KRS 216B.015(11) which provides for the transfusion of blood into a living human body.

(5) "Health care provider" means any licensed dentist, physician, osteopath, registered nurse, practical nurse, certified paramedic, certified emergency medical technician, or physician assistant.

(6) "Health service" means any health service as set forth under KRS 216B.015(14) and which provides for the transfusion of blood into a living human body.

(7) "Sexually transmitted disease" means only a blood borne sexually transmitted disease as provided under KRS 214.410(2) and as set forth in any administrative regulation issued under Section 6 of this Act and pursuant to KRS Chapter 13A.

(8) "Donor" means either a paid or volunteer donor of blood.

SECTION 2. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) All blood establishments within the Commonwealth shall be licensed by the U.S. Food and Drug Administration and remain in compliance with all applicable federal regulations. All blood establishments shall test blood for infection with the human immunodeficiency virus (HIV) or any known causative agent of acquired immune deficiency syndrome (AIDS), any blood borne communicable disease, and any blood borne sexually transmitted disease in accordance with such tests as are approved and required by the U.S. Food and Drug Administration.

(2) It shall be the duty of the administrator of any blood establishment which collects blood for the purpose of distributing to another health service, health facility or health care provider such blood for transfusion into a human person to:

(a) Secure a signed written risk factor history and donor consent form for each potential paid or volunteer donor for the purpose of determining if such potential donor is at high risk for infection with the human immunodeficiency virus, or has tested confirmatory positive for infection with the human immunodeficiency virus; or has acquired immune deficiency syndrome; or has tested confirmatory positive for infection with any causative agent for acquired immune deficiency syndrome recognized by the U.S. Centers for Disease Control; or has a blood borne communicable disease; or has a blood borne sexually transmitted disease;

(b) Provide a means for a potential paid or volunteer donor to self-elect not to donate blood;

(c) Refuse donation or sale of blood by persons at high risk for infection with the human immunodeficiency virus, or who have been medically diagnosed as having acquired immune deficiency syndrome, or who have tested confirmatory positive for infection with the human immunodeficiency virus, or who have a blood borne communicable disease, or who have a blood borne sexually transmitted disease;

(d) Post a sign in the blood establishment which is visible to all potential paid or voluntary blood donors and which states: "Persons with acquired immune deficiency syndrome (AIDS), or who have tested confirmatory positive for infection with the human immunodeficiency virus (HIV), or who have a blood borne communicable disease or sexually transmitted disease or who have been exposed to one (1) or more risk factors determined by the U.S. Centers for Disease Control to place such person at high risk for infection with the HIV virus or any AIDS-causative agent, are prohibited under Kentucky Revised Statutes from donating or selling blood. Persons violating the law are guilty of a Class D felony. ASK STAFF OF THIS BLOOD ESTABLISHMENT."

(3) The provisions of this section shall not be construed to impose requirements inconsistent with donor consent requirements set out in U.S. Food and Drug Administration or American Association of Blood Banks standards.

SECTION 3. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) No donor or potential donor of blood shall donate blood if the person is at high risk for infection with the HIV virus, or has AIDS or has tested confirmatory positive for antibodies to the HIV virus or any causative agent of AIDS.

(2) No donor or potential donor of blood shall give false information to the staff of a blood establishment about such person's diagnosis as having AIDS or risk for infection or actual infection with the human immunodeficiency virus, or having any known causative agent of AIDS, or having a blood borne sexually transmitted disease, or having a blood borne communicable disease.

SECTION 4. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) Any person who wishes to direct a donation of his blood to himself or to a particular individual may and shall be permitted to do so. The charge for any directed donation of blood or autologous blood donation shall not exceed more than twenty percent (20%) of the charge for a regular unit of blood.

(2) Any person who wishes to direct a donation of his blood to a particular individual may do so provided the requirements of Section 3 of this Act are met provided the recipient and the recipient's attending physician have requested the donation.

(3) The directed donation may be used for someone other than or in addition to the designated recipient if the donor's blood is not compatible with that of the designated recipient or if any part of the donation is not needed by the designated recipient.

(4) Any blood establishment which collects blood donations shall advise prospective donors of the provisions of this section and of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) No blood shall be transfused into a living human person by a health care provider, or within a health facility or a health service unless the blood establishment from which the blood is received is licensed by the U.S. Food and Drug Administration.

(2) Each unit of blood collected by a blood establishment for transfusion into a living human person shall be affixed with the U.S. Food and Drug Administration required label which includes a donor identification number through which the following information can be obtained:

(a) Date the blood was collected;

(b) Name of blood establishment;

(c) Nonidentifying code representing the name of the blood donor;

(d) A blood establishment serial number for the blood;

(e) The date of laboratory testing of the blood;

(f) The name of the person and laboratory testing the blood;

(g) The laboratory test results.

(3) Each unit of blood received by a blood establishment or health facility within the Commonwealth from an out-of-state blood establishment shall contain a label in accordance with the provisions of subsection (2) of this section and said blood establishment or health facility shall either test such blood in accordance with the requirements for blood establishments within the Commonwealth under the provisions of subsection (2) of Section 2 of this Act or may accept documented evidence of such test results as are required under subsection (2) of this section for blood collected within the Commonwealth.

(4) Each laboratory testing such blood shall maintain for ten (10) years from the date of testing and each blood establishment shall maintain for ten (10) years from the data of collection a list containing the information set forth in subsection (2) of this section.

(5) No blood may be transfused into any patient in any health facility or health service or by any health care provider unless such unit of blood has affixed to it the label as required under this section and the blood has tested negative for the human immunodeficiency virus or any causative agent of AIDS, or any blood borne sexually transmitted disease or communicable disease as provided under Section 6 of this Act. When a unit of blood is transfused into any patient, a label containing the donor identification number required under this section shall be removed from the unit and affixed to the patient's medical chart; provided, however, this section shall not apply to frozen blood products or blood derivatives except that for frozen blood products and blood derivatives, the donor identification number required under this section shall be recorded in the patient's medical chart.

(6) Any unit of blood not containing the label required under this section shall be destroyed by the health facility, health service or health care provider.

(7) Any unit of blood testing confirmatory positive for infection with the HIV virus or any known causative agent of AIDS and in the possession of a health facility, health service or health care provider may be donated to educational and scientific research institutions for the purpose of scientific research only and not for transfusion.

SECTION 6. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall set forth in administrative regulation subject to the provisions of KRS Chapter 13A those reportable communicable diseases or sexually transmitted diseases which may be transmitted through blood.

SECTION 7. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

The secretary of the cabinet for human resources shall develop and issue a standardized blood donor consent form and a standardized risk factor history form for mandatory use by any blood establishment which collects blood for the purpose of distributing such blood for human transfusion. The standardized blood donor consent form shall meet standards for suitability of donors as set forth in this Act and by the U.S. Food and Drug Administration.

SECTION 8. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

(1) Untested blood may be transfused only in an emergency situation in which the attending physician determines a patient is in imminent danger of death or great bodily harm and no tested and labeled blood as set forth under Section 5 of this Act is readily available to suitably alleviate the emergency situation; provided, however, that the attending physician shall, for any patient in such situation whose condition renders him incapable of giving consent, seek from the next of kin of the patient, if available, prior informed consent to transfuse any blood. For purposes of this section, "next of kin" means, in the following order, the husband or wife of the patient; if there is none, then the mother or father of the patient; if there is none, then any child of the patient; if there is none, then any brother or sister of the patient.

(2) Blood establishments may release untested blood, collected under standards set forth in Section 2 of this Act, at the request of a physician or health facility or health service in emergency circumstances as provided under this section. If blood has not been tested, the test shall be performed after issuance of the blood. If the blood subsequently tests confirmatory positive, the patient's attending physician shall be immediately notified. The attending physician shall notify the patient of the test results.

SECTION 9. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO READ AS FOLLOWS:

No health facility or physician or health care provider transfusing untested blood into a patient during an emergency situation if the blood is required to save the life of the patient shall be liable in civil damages or criminally, provided the provisions of Section 8 of this Act are met.

SECTION 10. A NEW SECTION OF KRS CHAPTER 214 IS CREATED TO RED AS FOLLOWS:

Any person who knowingly violates any provision of this Act shall be guilty of a Class D felony. Each violation shall constitute a separate offense.

Representative Mason moved that the House concur in the Senate Committee Substitute to **HB 50**. Agreed.

Representative Mason moved that **HB 50**, by way of Senate Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 10, 1988 roll call on **HB 50** - Appendix A.)

HB 50, by way of Senate Committee Substitute, was passed and the title agreed to.

Representative **Mason** moved that the vote by which **HB 50**, by way of Senate Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 57, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 1 to **HJR 57** is as follows:

Amend printed copy of **HJR 57** on page 2, line 9 insert after the "." the sentence: "The chairperson of this task force shall be appointed by the Legislative Research Commission."

Representative Hancock moved that the House concur in Senate Floor Amendment No. 1 to **HJR 57**. Agreed.

Representative Hancock moved that **HJR 57**, as amended by the Seante, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 10, 1988 roll call on **HJR 57** - Appendix A.)

HJR 57, as amended by the Senate, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HJR 57**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 154, by Representative Scorsone: A RESOLUTION honoring the Blue Grass Trust for Historic Preservation.

HR 156, by Representative Clarke: A RESOLUTION adjourning the House of Representatives in honor and in memory of Wesley Gilmer, Jr., State Law Librarian.

HR 157, by Representative Freibert: A RESOLUTION honoring The Most Reverend J. Kendrick Williams, Bishop of the Diocese of Lexington.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Health and Welfare: **HB 987**.

Education: **HB 524**, **HB 554**, **HB 928**, **HB 939**, **HB 869**, **HB 315**, **HB 794**, **HB 971**, **HB 980**, **HB 1003**, **HB 1004**, **HB 1006**, **HB 1008**, **HB 1009**, **HB 1010**, **HB 1012**, **HJR 129**, **HCR 131**, **SB 164**, **SB 170**.

Judiciary-Civil: **HB 805**, **HB 783**, **HB 859**, **HB 964**.

Transportation: **SB 6**, **HB 118**, **HB 141**, **HB 605**, **HB 981**, **HCR 128**.

Banking and Insurance: **SB 68**, **SB 197**, **SB 220**, **HB 713**, **HB 669**, **HB 953**, **HB 976**, **HB 1018**.

Labor and Industry: **HB 871**, **HB 910**, **HB 966**, **HB 884**, **HB 916**, **HB 991**, **HB 897**, **HB 919**, **HB 898**, **HB 936**.

State Government: **HB 901**, **SB 270**, **HB 700**, **SB 9**, **HB 1022**, **HCR 110**, **HB 924**.

Business Organizations and Professions: **SB 273**, **HB 965**, **HB 988**, **HB 886**.

Report of Committees

The Committee on Natural Resources and Environment reported **HB 217** with Committee Substitute attached thereto, **HB 310** with Committee Substitute attached thereto, **HB 500** with Committee Substitute attached thereto, **HB 673** with Committee Substitute attached thereto, **HB 875**, **HB 929** with Committee Amendment attached thereto, and **HB 930** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 217, AN ACT relating to water infrastructure funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224A.010 is amended to read as follows:

As used in this chapter, the following words or terms shall have the respective meanings indicated whenever used in this chapter, unless a different meaning is clearly indicated by the context:

(1) "Assistance agreement" shall mean the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a *loan or* [~~state~~] grant [~~or grants~~] to the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(2) "Authority" shall mean the Kentucky *water infrastructure* [~~pollution abatement and water resources finance~~] authority, which is created by this chapter.

(3) "Governmental agency" means any incorporated city or municipal corporation, or other agency, or unit of government within the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, and operate wastewater treatment facilities, as hereinafter defined, [~~and~~] water distribution facilities, as hereinafter defined and *water resources projects, as hereinafter defined, and* such *definitions* [~~definition~~] shall specifically apply, but not by way of limitation, to incorporated cities, counties, including any counties containing a metropolitan sewer district, sanitation districts, water districts, sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing such described powers.

(4) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(5) "State" means the Commonwealth of Kentucky.

(6) *"Cabinet"* [~~"State water pollution agency"~~] means the Kentucky natural resources and environmental protection cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the Federal *Clean Water Act (33 U.S.C. Section 1251 et. seq.)* [~~Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) (1948), as said federal act has been amended by subsequent acts of congress, including the Federal Water Pollution Control Act Amendments of 1972, 92nd Congress, Public Law 92-498 (86 Stat. 814) (1972), and~~] as said federal act may be amended from time to time in the future.

(7) "Federal act" means the Federal *Clean Water Act (33 U.S.C. Section 1251 et. seq.)* [~~Water Pollution Control Act, Public Law 845, 80th Congress (62 Stat. 1155) (1948) as said federal act has been amended by subsequent acts of congress, including the Federal Water Pollution Control Act Amendments of 1972, 92nd Congress, Public Law 92-498 (86 Stat. 814) (1972), and~~] as said federal act may be amended from time to time in the future.

(8) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground, waters.

(9) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(10) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of such waters for domestic water supply, industrial, or agricultural purposes, or recreational purposes.

(11) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(12) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing or recovery of any natural resources, including heat and radioactivity, together with such sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating or manufacturing processes.

(13) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of such waters.

(14) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from such treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(15) "Construction" means and includes, inter alia:

(a) Preliminary planning to determine the economic and engineering feasibility of treatment works, [~~and~~] distribution facilities, *and water resources projects*, the engineering, architectural, legal, fiscal, and economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of treatment works, [~~and~~] distribution facilities, *and water resources projects*;

(b) The erection, building, acquisition, alteration, remodeling, improvement or extension of treatment works, [~~and~~] distribution facilities, *and water resources projects*; and

(c) The inspection and supervision of the construction of treatment works, [~~and~~] distribution facilities, *and water resources projects* and all costs incidental to the acquisition and financing of same; and such term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, treatment works, [~~and~~] distribution facilities, *and water resources projects* which shall in futuro become eligible for federal grant or loan participation.

(16) "Eligible project" means any construction of treatment works, [~~or~~] distribution facilities, *or water resources projects* instituted by a governmental agency which is approved by the authority, and the state water pollution agency, public service commission or other agency if required.

(17) "Federal grant" means money which is made available to any governmental agency or to the authority or the state water pollution agency pursuant to the provisions of any federal law, which money is made available for the purpose of assisting such governmental agency, either directly or through allocation by the state, in the acquisition or construction of treatment works *or water resources projects.*

(18) "Service charge" means any monthly, quarterly, semiannual, or annual charges to be imposed by a governmental agency, or by the authority, for the collection, treatment, and disposal of pollutants, which service charge arises by reason of the existence of, and requirements of, any assistance agreement. Said term shall also mean any moneys and funds agreed to be paid on an annual automatically renewable basis by any county, including any county containing a metropolitan sewer district, to the authority pursuant to an assistance agreement.

(19) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

(20) *"Loan or* [~~"State~~] grant" [~~or "state grants"~~] means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction of treatment works, *distribution facilities, or water resources projects* which constitute the subject matter of any eligible project.

(21) "Authority revenues" means the totality of all:

(a) Service charges,

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority,

(c) Any gifts, grants or loans received from any agency of government, both federal and state, to the extent not otherwise required to be applied,

(d) Any and all appropriations made to the authority by the general assembly of the Commonwealth of Kentucky, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority, *to the extent not otherwise required to be applied,*

(e) All moneys received in repayment of and for interest on, any *loans* [~~state grant~~] made by the authority to a governmental agency, *except as provided in Sections 11 and 12 of this Act,* and

(f) The proceeds of bonds or long term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(22) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues, and shall include revenue bond anticipation notes.

(23) "General obligation bonds" means bonds issued by the state for the use and benefit of the authority, and to provide funds for authority purposes, secured by the full faith, credit, and unlimited taxing power of the state, which bonds have been properly voted at one or more elections, held in accordance with the requirements of sections 49 and 50 of the constitution of the Commonwealth of Kentucky.

(24) "Applicable interest rate" means the *rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded as described in Sections 9, 11, and 12 of this Act* [~~net average rate of interest which is established as a result of the sale of authority revenue bonds upon the occasion of the sale of authority revenue bonds last occurring before the execution of any particular assistance agreement, or occurring after the execution of any assistance agreement and contemplated thereby, which shall be used as a part of the repayment criteria of the governmental agency which is a party of such assistance agreement~~].

(25) "Federal loan" means money loaned to any governmental agency or to the authority pursuant to the provisions of any federal law, which money is made available for the purpose of assisting such governmental agency, either directly or through allocation by the state, in the acquisition and construction of treatment works, [~~or~~] distribution facilities *or water resources projects.*

(26) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, *pumping, storing,* treating and distributing water for agricultural, industrial, commercial, recreational, public and domestic use.

(27) "Interim financing agreement" shall mean the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance and delivery of long term debt obligations to effect federal loans to said governmental agency.

(28) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement or any other activity including programs for management, intended to conserve and develop the water resources of the Commonwealth and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(29) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the cabinet, or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(30) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement or other activity to provide for flood control.

(31) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(32) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(33) "Water infrastructure revolving fund" means that fund which will receive state funds for the purpose of providing loans or grants to finance construction of wastewater treatment works, distribution facilities, and water resources projects as defined in this section.

(34) "Cabinet prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund and the water infrastructure revolving fund. In determining prioritization the cabinet may consider pollution contribution to receiving streams, facility performance, population, or use any other criteria considered by the agency as appropriate to secure the loan, ensure an equitable distribution of funds and protect water quality. The authority shall provide financial assistance from the federally assisted wastewater revolving fund and the water infrastructure revolving fund only to those projects on the cabinet's prioritization lists and in the order of priority set by the cabinet unless the authority determines that a governmental agency is not financially capable of repaying the loan.

Section 2. KRS 224A.020 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky finds as a fact that the polluting and befouling of the waters of the state has harmed, and is presently harming and injuring, the state's abundant water resources, and, if unabated, will continue to harm such state water resources, and will endanger the health, safety, welfare and well-being of the general public, and the ability of the Commonwealth of Kentucky to provide essential governmental services for the benefit of the public, and that such situation, if allowed to continue unchecked, will destroy the natural chemical, physical, and biological integrity of the waters of the state. *Further, the conservation, development and proper use of the water resources of the Commonwealth of Kentucky are of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for agricultural, industrial, commercial, recreational, public and domestic use.* It is hereby found and determined to be essential to the preservation of the natural water resources, economic potential, and general well-being of the Commonwealth that, to the maximum and greatest extent possible, the Commonwealth of Kentucky should and must actively engage in a program *to provide financial, technical, or other support for projects* [~~of assistance to governmental agencies whereby waste water treatment works may be provided~~] to abate the devastation and destruction to the state's water resources, and the health menace to the general public, caused and occasioned by the pollution of the waters of the state, *and for projects that will control, store and protect our water resources in order that continued growth and development of the Commonwealth might be assured.*

Section 3. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky *water infrastructure* [~~pollution abatement and water resources finance~~] authority, *to be the successor to the Kentucky pollution abatement and water resources finance authority,* which [~~authority~~] shall be a body corporate and politic, constituting a public corporation and a governmental

agency and instrumentality of the Commonwealth of Kentucky. *All powers, duties and obligations of the Kentucky pollution abatement and water resources finance authority shall be transferred upon enactment of this Act to the Kentucky water infrastructure authority.* The affairs of the authority shall be managed and carried out by a board consisting of seven (7) members who shall be appointed by the governor of the state. The membership of the authority shall include the [~~secretary of the commerce cabinet who shall serve in an ex officio capacity, and as chairman of the authority. The~~] secretaries of *commerce*, finance and administration and natural resources and environmental protection, and the *commissioner* [~~commissioners~~] of [~~economic development and~~] local government *who* shall [~~also~~] serve as ex officio members of the authority. The governor shall additionally appoint *three (3)* [~~two (2)~~] at large members who shall serve for terms of four (4) years. Said members shall constitute said Kentucky *water infrastructure* [~~pollution abatement and water resources finance~~] authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the Commonwealth of Kentucky.

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Four (4) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one or more members may adjourn from time to time until a quorum is convened. Within 90 days from March 27, 1972, the authority shall convene and organize. The members of the authority shall choose from their ranks a chairman and a vice-chairman of the authority. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority with approval of the commissioner of personnel, to be paid from funds appropriated for that purpose. The treasurer shall give bonds to the authority and the state conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority shall prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth of Kentucky, premium therefor to be paid by the authority. The authority may engage an executive director, who shall be bonded as in the case of said treasurer, and such other technical personnel as may in the premises be deemed proper and prudent.

(4) The authority shall, for administrative purposes, be attached to the finance and administration cabinet, and shall establish and maintain offices in premises which shall be provided for that purpose by the finance and administration cabinet; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 4. KRS 224A.035 is amended to read as follows:

The Kentucky *water infrastructure* [~~pollution abatement and water resources finance~~] authority is created solely to perform essential governmental functions and to serve the public purpose of engaging in a program of assistance to governmental agencies in Kentucky with respect to the construction and acquisition of wastewater treatment works, [~~and~~] distribution facilities, *and water resources projects*. In accomplishing such purposes, the Kentucky *water infrastructure* [~~pollution abatement and water resources finance~~] authority shall be and constitute a de jure municipal corporation and political subdivision of the Commonwealth of Kentucky.

Section 5. KRS 224A.040 is amended to read as follows:

The authority is specifically authorized, pursuant to the terms, conditions, restrictions and requirements of this chapter to make *loans or* [~~state~~] grants as funds are available, to any governmental agency to assist said governmental agency to carry out the construction of wastewater treatment works, *distribution facilities, and water resources projects* which will constitute [~~and be an~~] eligible *projects* [~~project~~].

Section 6. KRS 224A.050 is amended to read as follows:

It is hereby found and declared as a legislative finding of fact that in performing its duties and responsibilities, the authority is performing and carrying out essential governmental functions. The authority is empowered, from time to time, to receive and accept any and all appropriations to the authority which may be made by the General Assembly of the Commonwealth of Kentucky, and such appropriations are specifically authorized to be made to the authority. The authority may, from time to time, receive and accept from the state, its agencies, and any federal agency, grants for, or in aid of, any eligible project, and grants for, or in aid of, any wastewater, *distribution or water resources* research or wastewater, *distribution or water resources* management study or training project related to the purposes for which the authority is created, such grants or contributions to be held, used, and applied only for the purposes for which such grants and contributions are made and received.

SECTION 7. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

In order to provide for the development of Kentucky's water resources to meet future demands for usable water, and to provide for the construction of water resource projects including but not limited to the construction of dams with water storage capacity, reservoirs for municipal and industrial water supply, and other projects and water supply facilities to assure the adequate supply of water which is essential to the continued municipal, industrial, recreational and agricultural growth of the Commonwealth, the authority is authorized to:

(1) Contract with the federal government for the inclusion of water supply storage space behind existing or proposed flood control or other projects; and

(2) Participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any water supply project.

Section 8. KRS 224A.070 is amended to read as follows:

The authority is expressly empowered to carry out and perform the following essential governmental functions of statewide import and concern:

(1) To adopt comprehensive rules, regulations and bylaws for the regulation of its affairs and the conduct of its business, which *shall* [~~may~~] define with specificity conditions precedent under which applications for *loans or* [~~state~~] grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which said authority is empowered to act, together with such other employes as shall be necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service in the Commonwealth of Kentucky, such tax to be equal to not more than two per cent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for *loans or* [~~state~~] grants;

(7) To make *loans or* [~~state~~] grants to any governmental agency for the purpose of assisting such governmental agency in the construction of eligible projects. All such *loans or* [~~state~~] grants shall be payable to the governmental agency in accordance with the terms and conditions of an assistance agreement by and between the authority and such governmental agency, which shall include the provisions and conditions specified in KRS 224A.100 *or Sections 11 and 12 of this Act*, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, such real property or rights therein, including rights-of-way, easements and licenses, and such personal property as may be reasonably deemed necessary in order to effectuate the development, implementation, financing, and construction of any eligible project, and to make such properties available to governmental agencies in connection with eligible projects;

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of such assistance agreements, and to use and employ such service charges in accordance with the provisions of this chapter, such service charges to constitute authority revenues;

(10) To enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer eligible projects partially financed by *loans or* [~~state~~] grants which have been undertaken by governmental agencies;

(11) To enter interim financing agreements with governmental agencies qualified for federal loans in order to provide to said governmental agencies interim construction moneys pending the sale, issuance and delivery of long term debt obligations by said governmental agency to the federal government through the issuance of one (1) or more series of the authority's bond anticipation notes.

(12) To enforce interim financing agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings in order to provide for the payment of the authority's bond anticipation notes issued on behalf of said governmental agencies.

(13) *To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this Act.*

(14) To have, possess and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 9. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with eligible projects. Each such assistance agreement shall be subject to approval by the *cabinet* [~~state water pollution agency~~], may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the eligible project, as determined by the authority;

(2) The amount of *loans or* [~~state~~] grants to be made to the governmental agency;

(3) The time or times at which such *loans or* [~~state~~] grants shall become payable to the governmental agency;

(4) The specific purpose or purposes for which the proceeds of *loans or* [~~state~~] grants made pursuant to the assistance agreement shall be expended;

(5) The conditions under which *loans or* [~~state~~] grants may be expended on account of the eligible project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the eligible project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

(b) To commence or cause to be commenced operation of the eligible project on completion of construction, and not to discontinue operations or dispose of such eligible project without the approval of the authority and the *cabinet* [~~state water pollution agency~~];

(c) To operate and maintain or cause to be operated and maintained the eligible project in accordance with the applicable provisions of federal and state law;

(d) To cooperate fully with the authority and the *cabinet* [~~state water pollution agency~~] before applying for federal assistance for pollution abatement, if any;

(e) To provide for the payment of the governmental agency's share of the cost of the eligible project, if the entire eligible project is not financed by a *loan or* [~~state~~] grant and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that in the event federal grant assistance which was not included in the calculation of the *loan or* [~~state~~] grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the *loan or* [~~state~~] grant shall be recalculated with the inclusion of such additional federal assistance, and the governmental agency shall pay to the authority the amount, if any, by which the *loan or* [~~state~~] grant actually made, exceeds the *loan or* [~~state~~] grant payment as determined by the recalculation;

(8) The extent to which the *loan* [~~state grant~~] shall be repaid to the authority, which shall not be less than the sum of the following, *except as provided under Sections 11 and 12 of this Act*:

(a) The aggregate principal amount of the *loan* [~~state grant~~]; and

(b) Interest on the aggregate balance of the principal amount of the *loan* [~~state grant~~] from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed 1/4 of 1%, *except as provided for in Sections 11 and 12 of this Act.*

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any such service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section;

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the state treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid (with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to section 230 of the constitution of Kentucky) as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the rate of six per cent (6%) per annum, shall have been paid.

Section 10. KRS 224A.110 is amended to read as follows:

[~~All~~] Moneys derived by the authority pursuant to [~~all~~] assistance agreements *other than those assistance agreements funded under Sections 11 and 12 of this Act* shall be received by the authority as constituting authority revenues, and shall, in common with [~~all~~] other authority revenues, be immediately deposited into an account designated as the "Kentucky Pollution Abatement Authority Revenue Fund". *Moneys derived by the authority pursuant to assistance agreements funded under Section 11 of this Act and all federal and state money received in support of assistance agreements funded under Section 11 of this Act shall be deposited into an account designated as the "federally assisted wastewater revolving fund." Moneys derived by the authority pursuant to assistance agreements funded under Section 12 of this Act and all state money received in support of Section 12 of this Act shall be deposited into an account designated as the "water infrastructure fund."* All authority revenues [~~from whatever source derived~~] shall, before being expended for any other purposes of the authority, first be applied to the payment of the principal of and interest on authority revenue bonds, as, and when the same become due and payable.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The federally assisted wastewater revolving fund is established which shall be administered by the authority under an agreement with the cabinet to assure compliance with the federal act.

(2) The fund established in subsection (1) of this section shall be a dedicated fund and all moneys in the

fund shall be dedicated solely to providing financial assistance to government agencies for the construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(3) The authority or the cabinet may enter into grant agreements with the administrator of the United States environmental protection agency and accept capitalization grants for the revolving fund in accordance with payment schedules established with the administrator.

(4) All payments from the administrator pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund created above.

(5) The authority or the cabinet shall seek appropriations for deposit into the revolving fund of the amount required to match the capitalization grants from the administrator. An amount not exceeding four percent (4%) of the funds available to finance projects may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.

(6) The financial assistance which may be provided to governmental agencies by the revolving fund is limited to;

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty (20) years, that annual principal and interest payments will commence no later than when project construction is completed and all loans will be fully amortized not later than twenty (20) years after project construction is completed, that the recipient of a loan will establish a dedicated source of revenue for repayment of loans, and that the fund will be credited with all payments of principal and interest on all loans;

(b) Guaranteeing, or purchasing insurance for obligations of the fund where the action would improve credit market access or reduce interst rates;

(c) Providing a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority or agencies of the state if the proceeds of the sale of such bonds will be deposited in the fund; and

(d) Earning interest on fund accounts.

(7) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.

(8) The authority shall obligate all payments from the administrator of the United States environmental protection agency as well as the required state match, within one (1) year after the receipt of such payments.

(9) Financial assistance may be provided from the fund only for those projects which the cabinet has determined to be of priority in its prioritization schedule.

(10) The authority may make and condition loans from the fund as required by state or federal law.

(11) The authority or the cabinet shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the revolving fund and for fund balances at the beginning and end of the accounting period.

(12) The authority or the cabinet may make or prepare any necessary or required plan or report.

(13) The authority or the cabinet or the loan recipient shall make available to the administrator of the United States environmental protection agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.

(14) The authority or the cabinet may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make

or provide any financial assistance.

(15) The authority or the cabinet may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

(16) If a loan is made from the federally assisted wastewater revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the state shall ensure that if the recipient of such loan receives a grant under Section 201(g) of the federal act, for construction of such treatment works and an allowance under Section 201(1)(l) of the federal act, as amended non-federal funds expended for such planning and preparation, such recipient will promptly repay such loan to the extent of such allowance.

(17) Financial assistance may be provided from the federally assisted wastewater revolving fund only with respect to a project which is consistent with plans, if any, developed under Sections 205(j), 208, 303(e), 319, and 320 of the federal act, as amended.

(18) The authority or the cabinet shall require as a condition of making a loan or providing other assistance, as described in Section 11(6) of this Act, from the fund that the recipient of such assistance shall maintain project accounts in accordance with generally accepted governmental accounting standards.

(19) Assistance may be provided from the fund (other than under subsection (6)(a) of this section) to a governmental agency with respect to the non-federal share of the costs of a treatment works project for which such governmental agency is receiving assistance from the administrator of the United States environmental protection agency under any other authority only if such assistance, as determined by the governor, is necessary to allow such project to proceed.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The water infrastructure revolving fund is established which shall be administered by the authority or the cabinet under interagency agreement with the cabinet.

(2) The fund established in subsection (1) of this section shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies for the construction of treatment works, distribution facilities, and those water resources projects specifically related to aspects of water supply and flood damage abatement projects.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund is limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years, that the recipient of a loan will establish a dedicated source of revenue for repayment of loans, and that the fund will be credited with all payments of principal and interest on all loans;

(b) Guaranteeing, or purchasing insurance for local and state obligations where the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on revenue or general obligation bonds issued by the authority or other agencies of the state if the proceeds of the sale of such bonds will be deposited in the fund;

(d) Earning interest on fund accounts; and

(e) Making grants as funds specifically appropriated for grants are available.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) Financial assistance may be provided from the fund to supplement assistance provided from the federally

assisted wastewater revolving fund as created in Section 11 of this Act or for any projects which the cabinet has determined to be of priority in its prioritization schedule.

(6) The authority or the cabinet may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

(7) An amount not exceeding four percent (4%) of the funds available from which to finance projects may be used for the reasonable costs of administering the fund and for reviewing and regulating project construction and for other reasonable costs to implement provisions of this fund.

Section 13. KRS 224A.180 is amended to read as follows:

(1) In order to protect the public health, safety, and welfare, and in order to assure the prompt and necessary payment to the authority of all monetary requirements arising from assistance agreements entered into by and between the authority and the governmental agencies, and thereby assure the financial integrity of the authority, and the prompt payment of principal of and interest on revenue bonds and notes issued by the authority, the authority is specifically authorized, in the event any governmental agency which is a party to an assistance agreement fails to promptly and duly perform all of the terms and conditions of such assistance agreement, to directly impose, in the authority's name and for the authority's benefit, service charges upon all users of the eligible project constructed pursuant to such assistance agreement, and to proceed to directly enforce and collect such service charges, together with all necessary costs of such enforcement and collection, in the name of the authority and for the benefit of the authority.

(2) In addition to the powers conferred by subsection (1) of this section, the authority may, upon the occurrence of any such event of default by such governmental agencies, mandatorily require the owner, tenant, or occupant of each and every lot or parcel of land which abuts upon a street or other public way containing a sanitary sewer *or drinking water facility,* and upon which lot or parcel of land an improvement exists for residential, commercial, or industrial use, or where a sanitary sewer *or drinking water facility* is reasonably available to serve such improved lot or parcel of land, to forthwith connect such improvement to such sanitary sewer, *or drinking water facility* and to cease to use any other means for the disposal of sewage, sewage waste, or other pollutants.

(3) In the implementation of such enforcement authority, the authority shall have and possess all of the powers of incorporated municipalities which are granted by KRS 96.930 to 96.943, providing for the termination of water services to any premises where the bill for sewer services is delinquent.

(4) The authority is further expressly authorized and empowered by suit, action, mandamus, or other proceedings, to compel performance by governmental agencies of all of the terms and conditions of assistance agreements, including, inter alia, the adjustment and increase of service charges as required to meet the needs of any assistance agreement, and the enforcement and collection of such service charges.

SECTION 14. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The authority or the cabinet may promulgate regulations to implement Sections 11 and 12 of this Act.

Section 15. The following KRS sections are repealed:

151.330 Water resources authority — Membership — Quorum — Officers — Executive board.

151.340 Executive director — Appointment — Duties.

151.350 Attorney general as legal officer.

151.360 Contracts with federal government for water resources projects — Participation in projects — Coordination of programs.

151.370 Powers of authority — Land acquisition.

151.380 Water resources fund, creation, uses.

151.390 Loans to governmental agencies for water resources project.

151.400 Loans — Interest rate — Security.

151.410 Application for assistance on water resources projects.

151.420 Revenue bonds for water resources projects — Use of proceeds — Interim receipts or temporary bonds — Tax exemption.

151.430 Payment of revenue bonds, source.

151.440 Revenue bonds, how secured — Trust indenture, contents.

151.450 Rights of holder of bonds or trustee.

The Committee Substitute to **HB 217** is as follows:

HB 217. AN ACT relating to infrastructure funding.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

As used in this chapter, the following words or terms shall have the respective meanings indicated whenever used in this chapter, unless a different meaning is clearly indicated by the context:

(1) "Applicable interest rate" means the rate of interest which shall be used as part of the repayment criteria for an assistance agreement between a governmental agency and the authority, and shall be determined by the authority pertinent to the source of funds from which the assistance agreement is funded.

(2) "Assistance agreement" shall mean the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for a lease, loan, services or grant to the governmental agency or for the purchase of obligations issued by the governmental agency, and for the repayment thereof to the authority by the governmental agency.

(3) "Authority" shall mean the Kentucky infrastructure authority, which is created by this chapter.

(4) "Authority revenues" means the totality of all:

(a) Service charges;

(b) Water utility tax receipts, to the extent not otherwise committed and budgeted by the authority during any fiscal period of the authority;

(c) Any gifts, grants or loans received, to the extent not otherwise required to be applied;

(d) Any and all appropriations made to the authority by the general assembly of the Commonwealth of Kentucky, to the extent not otherwise required to be applied;

(e) All moneys received in repayment of and for interest on any loans made by the authority to a governmental agency, except as provided in Sections 11 and 12 of this Act, or as principal of and interest on any obligations issued by a governmental agency and purchased by the authority, or as receipts under any assistance agreement; and

(f) The proceeds of bonds or long-term debt obligations of governmental agencies pledged to the payment of bond anticipation notes issued by the authority on behalf of the said governmental agency to provide interim construction financing.

(5) "Community flood damage abatement project" means any structural or nonstructural study, plan, design, construction, development, improvement or other activity to provide for flood control.

(6) "Construction" means and includes, inter alia:

(a) Preliminary planning to determine the economic and engineering feasibility of infrastructure projects, the engineering, architectural, legal, fiscal, and economic investigations and studies necessary thereto, and surveys, designs, plans, working drawings, specifications, procedures and other actions necessary to the construction of infrastructure projects;

(b) The erection, building, acquisition, alteration, remodeling, improvement or extension of infrastructure projects; and

(c) The inspection and supervision of the construction of infrastructure projects and all costs incidental to the acquisition and financing of same; and such term shall also relate to and mean any other physical devices or appurtenances in connection with, or reasonably attendant to, infrastructure projects.

(7) "Dams" means any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the natural resources cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre feet or more.

(8) "Distribution facilities" means all or any part of any facilities, devices, and systems used and useful in obtaining, pumping, storing, treating and distributing water for agricultural, industrial, commercial, recreational, public and domestic use.

(9) "Federal act" means the Federal Clean Water Act (33 U.S.C. Section 1251 et seq.) as said federal act may be amended from time to time in the future, or any other enactment of the United States Congress providing funds that may assist in carrying out the purposes of the authority.

(10) "Federally assisted wastewater revolving fund" means that fund which will receive federal and state funds or the proceeds from the sale of revenue bonds of the authority for the purpose of providing loans to finance construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(11) "Governmental agency" means any incorporated city of municipal corporation, or other agency, or unit of government within or a department or a cabinet of the Commonwealth of Kentucky, now having or hereafter granted, the authority and power to finance, acquire, construct, or operate infrastructure projects and such definition shall specifically apply, but not by way of limitation, to incorporated cities, counties, including any counties containing a metropolitan sewer district, sanitation districts, water districts, sewer construction districts, metropolitan sewer districts, sanitation taxing districts, and any other agencies, commissions, districts, or authorities (either acting alone, or in combination with one another pursuant to any regional or area compact, or multi-municipal agreement), now or hereafter established pursuant to the laws of the Commonwealth of Kentucky having and possessing such described powers.

(12) "Industrial waste" means any liquid, gaseous, or solid waste substances resulting from any process of industry, manufacture, trade, or business, or from the mining or taking, development, processing or recovery of any natural resources, including heat and radioactivity, together with such sewage as is present therein, which pollutes the waters of the state, and specifically, but not by way of limitation, means heat or thermal differentials created in the waters of the state by any industrial processing, generating or manufacturing processes.

(13) "Infrastructure project" means any construction or acquisition of treatment works, distribution facilities, or water resources projects instituted by a governmental agency which is approved by the authority and, if required, by the natural resources cabinet, public service commission or other agency; solid waste management facilities; dams; storm water control and treatment systems; solid waste handling and disposal facilities; gas

or electric utility; or any other public utility or public service project which the authority finds would enhance economic development opportunities in a governmental agency.

(14) "Infrastructure revolving fund" means that fund which will receive state funds, the proceeds from the sale of revenue bonds of the authority or other moneys earmarked for that fund for the purpose of providing loans or grants to finance construction or acquisition of infrastructure projects as defined in this section.

(15) "Interim financing agreement" means the agreement to be made and entered into by and between a governmental agency and the authority, as authorized by this chapter, providing for the use of the authority as an issuing agency in providing interim financing through the issuance of bond anticipation notes by the authority on behalf of a governmental agency in order to provide construction financing to said governmental agency pending the sale, issuance and delivery of long-term debt obligations to effect assistance to said governmental agency.

(16) "Loan or grant" means moneys to be made available to governmental agencies by the authority for the purpose of defraying all or any part of the total costs incidental to construction or acquisition of any infrastructure project.

(17) "Market interest rate" means the interest rate available to governmental agencies from sources other than those defined by this chapter at the time the authority shall provide financial assistance to a governmental agency.

(18) "Natural resources cabinet" means the Kentucky natural resources and environmental protection cabinet, or its successor, said term being meant to relate specifically to the state agency which is designated as the water pollution agency for the Commonwealth of Kentucky, for purposes of the federal act.

(19) "Obligation of a governmental agency" means a revenue bond issued by a governmental agency under KRS 58.010 et seq.

(20) "Person" means any individual, firm, partnership, association, corporation, or governmental agency.

(21) "Pollution" means the placing of any noxious or deleterious substances ("pollutants"), including sewage and industrial wastes, in any waters of the state or affecting the properties of any waters of the state in a manner which renders such waters harmful or inimical to the public health or to animal or aquatic life, or to the use, present or future, of such waters for domestic water supply, industrial, agricultural or recreational purposes.

(22) "Prioritization schedules" means the list of wastewater treatment works, distribution facilities and water resources projects which the natural resources cabinet has evaluated and determined to be of priority for receiving financial assistance from the federally assisted wastewater revolving fund, or the list of infrastructure projects which the department of local government has evaluated and determined to be of priority for receiving financial aid from the infrastructure revolving fund.

(23) "Revenue bonds" means special obligation bonds issued by the authority pursuant to the provisions of this chapter, which are not direct or general obligations of the state, and which are payable only from a pledge of, and lien upon, authority revenues as provided in the resolution authorizing the issuance of the bonds, and shall include revenue bond anticipation notes.

(24) "Service charge" means any monthly, quarterly, semiannual, or annual charges to be imposed by a governmental agency, or by the authority, for any infrastructure project financed by the authority, which service charge arises by reason of the existence of, and requirements of, any assistance agreement. Said term shall mean any moneys and funds agreed to be paid on an annual automatically renewable basis by any county, including any county containing a metropolitan sewer district, to the authority pursuant to an assistance agreement.

(25) "Sewage" means any of the waste products or excrements, or other discharges from the bodies of human beings or animals, which pollute the waters of the state.

(26) "Solid waste management facility" means any resource recovery system or component thereof, any system, program or facility for resource conservation, and any facility for collection, source separation, storage, transportation, transfer, processing, treatment or disposal of solid waste, whether such facility is associated

with facilities generating such waste or otherwise.

(27) "State" means the Commonwealth of Kentucky.

(28) "Treatment works" or "wastewater treatment works" means all or any part of any facilities, devices, and systems used and useful in the storage, treatment, recycling, and reclamation of wastewater, including facilities for the treatment, neutralization, disposal of, stabilization, collecting, segregating, or holding of wastewater, including without limiting the generality of the foregoing, intercepting sewers, outfall sewers, pumping power stations and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof, and any wastewater treatment works, including site acquisition of the land that will be an integral part of the wastewater treatment process, or is used for ultimate disposal of residues resulting from such treatment, together with any other facilities which are deemed to be treatment works pursuant to the federal act.

(29) "Variable rate revenue bonds" means revenue bonds the rate of interest on which fluctuates either automatically by reference to a predetermined formula or index or pursuant to the standards set forth in Section 13 of this Act.

(30) "Wastewater" means any water or liquid substance containing sewage, industrial waste, or other pollutants or contaminants derived from the prior use of such waters.

(31) "Water resources" means all waters of the state occurring on the surface, in natural or artificial channels, lakes, reservoirs, or impoundments, and in subsurface aquifers, which are available, or which may be made available to agricultural, industrial, commercial, recreational, public, and domestic users.

(32) "Water resources project" means any structural or nonstructural study, plan, design, construction, development, improvement or any other activity including programs for management, intended to conserve and develop the water resources of the state and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures.

(33) "Waters of the state" means all streams, lakes, watercourses, waterways, ponds, marshes, wells, springs, irrigation systems, drainage systems, and all other bodies or accumulations of water, surface and underground, natural or artificial, which are situated wholly or partly within, or border upon, this state, or are within its jurisdiction, except those private waters which do not combine or effect a junction with natural, surface or underground, waters.

(34) "Water utility tax" means the tax which may be imposed by the authority on every purchase of water service in the Commonwealth of Kentucky.

Section 2. KRS 224A.020 is amended to read as follows:

The general assembly of the Commonwealth of Kentucky finds as a fact that the polluting and befouling of the waters of the state has harmed, and is presently harming and injuring, the state's abundant water resources, and, if unabated, will continue to harm such state water resources, and will endanger the health, safety, welfare and well-being of the general public, and the ability of the *state* [~~Commonwealth of Kentucky~~] to provide essential governmental services for the benefit of the public, and that such situation, if allowed to continue unchecked, will destroy the natural chemical, physical, and biological integrity of the waters of the state. *Further, the conservation, development and proper use of the water resources of the state are of vital importance as a result of population expansion and concentration, industrial growth and technological advances.* It is hereby found and determined to be essential to the preservation of the natural water resources, economic potential, and general well-being of the *state* [~~Commonwealth~~] that, to the maximum and greatest extent possible, the *state* [~~Commonwealth of Kentucky~~] should and must actively engage in a program of assistance to governmental agencies whereby *infrastructure projects may be more economically provided so as to better serve the general public of the state* [~~wastewater treatment works may be provided to abate the devastation and destruction to the state's water resources, and the health menace to the general public, caused and occasioned by the pollution of the waters of the state~~].

Section 3. KRS 224A.030 is amended to read as follows:

(1) There is hereby created the Kentucky *infrastructure* [~~pollution abatement and water resources finance~~]

authority, which authority shall be a body corporate and politic, constituting a public corporation and a governmental agency and instrumentality of the *state* [~~Commonwealth of Kentucky~~]. *All powers, duties and obligations of the Kentucky pollution abatement and water resources finance authority shall be transferred upon enactment of this Act to the Kentucky infrastructure authority.* The affairs of the authority shall be managed and carried out by a board consisting of seven (7) members [~~who shall be appointed by the governor of the state. The membership of the authority shall include the secretary of the commerce cabinet who shall serve in an ex officio capacity, and as chairman of the authority~~]. The secretaries of *the commerce,* finance and administration, and natural resources and environmental protection *cabinets,* and the *commissioner* [~~commissioners~~] of *the department of* [~~economic development and~~] local government shall [~~also~~] serve as ex officio members of the authority. The governor shall additionally appoint *three (3)* [~~two (2)~~] at large members who shall serve for terms of four (4) years. *The* [~~Said~~] members shall constitute *the* [~~said~~] Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority, with power in that name to contract and be contracted with, sue and be sued, have and use a corporate seal, and exercise, in addition to the powers and functions specifically stated in this chapter, all of the usual powers of private corporations to the extent that the same are not inconsistent with specifically enumerated powers of the authority. In the carrying out of its purposes and the exercise by it of the powers conferred by this chapter, the authority is deemed and declared to be performing essential governmental functions and public purposes of the *state* [~~Commonwealth of Kentucky~~].

(2) The members of the authority shall receive no compensation for their services in said capacity, but shall be entitled to reimbursement for all reasonable expenses necessarily incurred in connection with performance of their duties and functions as such members.

(3) Four (4) members of the authority shall constitute a quorum for the transaction of business, and in the absence of a quorum, one (1) or more members may adjourn from time to time until a quorum is convened. *The secretary of the finance and administration cabinet shall serve as chairperson* [~~Within 90 days from March 27, 1972, the authority shall convene and organize~~]. The members of the authority shall choose from their ranks a [~~chairman and a~~] vice-chairman [~~of the authority~~]. The authority shall elect a secretary and a treasurer who shall not be members of the authority, each of whom shall serve at the pleasure of the authority and shall receive such compensation as may be determined by the authority [~~with approval of the commissioner of personnel, to be paid from funds appropriated for that purpose. The treasurer shall give bonds to the authority and the state conditioned upon his faithful accounting for all funds coming into his custody from time to time, the same to be in such amount as the authority shall prescribe, with corporate surety given by a surety company qualified to do business in the Commonwealth of Kentucky, premium therefor to be paid by the authority. The authority may engage an executive director, who shall be bonded as in the case of said treasurer, and such other technical personnel as may in the premises be deemed proper and prudent~~].

(4) The authority shall, for administrative purposes, be attached to the finance and administration cabinet, and shall establish and maintain offices in premises which shall be provided for that purpose by the finance and administration cabinet; and the secretary of the authority shall at all times maintain therein complete records of all of the authority's actions and proceedings which shall constitute public records open to inspection at all reasonable times.

Section 4. KRS 224A.035 is amended to read as follows:

The Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority is created solely to perform essential governmental functions and to serve the public purpose of engaging in a program of assistance to governmental agencies in the *state* [~~Commonwealth of Kentucky~~] with respect to the construction and acquisition of *infrastructure projects* [~~wastewater treatment works and distribution facilities~~]. In accomplishing such purposes, the Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority shall be and constitute a de jure municipal corporation and political subdivision of the *state* [~~Commonwealth of Kentucky~~].

Section 5. KRS 224A.040 is amended to read as follows:

The authority *may* [~~is specifically authorized~~], pursuant to the terms, conditions, restrictions and requirements of this chapter, *lease an infrastructure project or* [~~to~~] make *loans or* [~~state~~] grants as funds are available, to any governmental agency *or purchase obligations of a governmental agency* to assist *the* [~~said~~] governmental agency to carry out the construction *or acquisition* of *infrastructure projects* [~~wastewater treatment works which will constitute and be an eligible project~~].

Section 6. KRS 224A.050 is amended to read as follows:

It is hereby found and declared as a legislative finding of fact that in performing its duties and responsibilities, the authority is performing and carrying out essential governmental functions. The authority *may* [~~is empowered~~], from time to time, [~~to~~] receive and accept any and all appropriations to the authority which may be made by the general assembly of the *state* [~~Commonwealth of Kentucky~~], and *the* [~~such~~] appropriations *may* [~~are specifically authorized to~~] be made to the authority. The authority may, from time to time, receive and accept from the state, its agencies, and any federal agency, grants for, or in aid of, any *infrastructure* [~~eligible~~] project, and grants for, or in aid of, [~~any wastewater~~] research or [~~wastewater~~] management *studies* [~~study~~] or training *projects* [~~project~~] related to the purposes for which the authority is created, *the* [~~such~~] grants or contributions to be held, used, and applied only for the purposes for which *the* [~~such~~] grants and contributions are made and received.

Section 7. KRS 224A.070 is amended to read as follows:

The authority *may* [~~is expressly empowered to~~] carry out and perform the following essential governmental functions of statewide import and concern:

(1) To adopt comprehensive rules, regulations and bylaws for the regulation of its affairs and the conduct of its business, which *shall* [~~may~~] define with specificity conditions precedent under which applications for *loans or* [~~state~~] grants may be made and the order of priority upon which applications shall be acted upon;

(2) To retain an executive director, who shall be experienced and knowledgeable in the fields in which *the* [~~said~~] authority *may* [~~is empowered to~~] act, together with [~~such~~] other employes [~~as shall be~~] necessary and appropriate to enable the authority to fulfill its duties, functions and responsibilities;

(3) To adopt a corporate seal;

(4) To sue and be sued in its own name and to have the right, power, and authority to enforce its obligations and covenants made pursuant to the provisions of this chapter;

(5) To levy a tax on every purchase of water service in the *state* [~~Commonwealth of Kentucky~~], such tax to be equal to not more than two per cent (2%) of the gross amount of the bill for water services rendered;

(6) To approve or reject applications made to the authority for *loans or* [~~state~~] grants;

(7) To *lease an infrastructure project or* make *loans or* [~~state~~] grants to *or purchase obligations of* any governmental agency for the purpose of assisting *the* [~~such~~] governmental agency in the construction of *an infrastructure project* [~~eligible projects~~]. *A lease, loan or grant* [~~All such state grants~~] shall be [~~payable to the governmental agency~~] in accordance with the terms and conditions of an assistance agreement by and between the authority and *the* [~~such~~] governmental agency, which shall include the provisions and conditions specified in KRS 224A.100, and such other reasonable terms and conditions as the authority shall determine;

(8) Without reference to the provisions of KRS Chapter 56, to acquire and hold in the name of the authority, by the exercise of the power of eminent domain pursuant to the Eminent Domain Act of Kentucky, *the* [~~such~~] real property or rights therein, including rights-of-way, easements and licenses, and *the* [~~such~~] personal property [~~as may be~~] reasonably deemed necessary [~~in order~~] to effectuate the development, implementation, financing, and construction *or acquisition* of any *infrastructure* [~~eligible~~] project, and to make *the* [~~such~~] properties available to *a* governmental *agency* [~~agencies~~] in connection with *an infrastructure project* [~~eligible projects~~];

(9) To receive service charges from governmental agencies which have entered into assistance agreements with the authority, in accordance with the terms and conditions of *the* [~~such~~] assistance agreements, and to use and employ *the* [~~such~~] service charges in accordance with the provisions of this chapter, *the* [~~such~~] service charges to constitute authority revenues;

(10) To *enter into and* enforce assistance agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings, including the obtaining by judicial decree of the appointment of a receiver to administer *infrastructure* [~~eligible~~] projects [~~partially~~] financed by *leases, loans or* [~~state~~] grants which have been undertaken by governmental agencies;

(11) To enter interim financing agreements with governmental agencies qualified for federal loans in order to provide to *the* [~~said~~] governmental agencies interim construction moneys pending the sale, issuance and delivery of long term debt obligations [~~by said governmental agency to the federal government~~] through the issuance of one (1) or more series of the authority's bond anticipation notes;

(12) To enforce interim financing agreements made and entered into with governmental agencies by suit, action, mandamus or other proceedings in order to provide for the payment of the authority's bond anticipation notes issued on behalf of *the* [~~said~~] governmental agencies;

(13) *To enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this Act;*

(14) To bid at a competitive public sale of obligations of a governmental agency or negotiate the purchase or sale of obligations of a governmental agency, notwithstanding any other law to the contrary;

(15) To borrow money and issue negotiable bonds and notes pursuant to this Act;

(16) To lend money to governmental agencies or to advance moneys from the infrastructure revolving fund to the federally assisted wastewater revolving fund in order to match federal moneys that may become available;

(17) To contract with the federal government as to any infrastructure project;

(18) To participate with the federal government or any of its agencies, the state government or any of its agencies or political subdivisions, or any other person in the construction or repair of any infrastructure project; and

(19) To have, possess and exercise all other powers reasonably incident to the carrying out of the duties and responsibilities of the authority.

Section 8. KRS 224A.080 is amended to read as follows:

All governmental agencies shall have and possess, in addition to all other powers now or hereafter vested in them, the following powers:

(1) To undertake *infrastructure* [~~eligible~~] projects;

(2) To make application for, and to receive, federal grants *or loans* in aid of *infrastructure* [~~or loans for eligible~~] projects in accordance with the provisions of any federal laws now in effect, or in effect in the future;

(3) To make application for, and to receive, [~~state~~] grants *or loans* in accordance with the terms and provisions of this chapter;

(4) To comply with rules, regulations, and bylaws promulgated by the authority [~~with respect to state grants~~];

(5) To enter into assistance agreements or interim financing agreements with the authority;

(6) To comply with all terms, conditions and requirements of any assistance agreement. *An assistance agreement to which a governmental agency is a party may provide for the making of financing payments by the governmental agency from appropriations made to or by the governmental agency as, if and when received. No such obligation shall be binding on the governmental agency for a period extending beyond the legislative term during which it is incurred, but it may be renewed during successive legislative terms* [~~or interim financing agreement pursuant to which a state grant is to be received from the authority or the authority is to provide interim financing to the governmental agency~~];

(7) To covenant with the authority to, and to impose, service charges upon all persons to whom [~~sewer~~] services are provided by *infrastructure* [~~the construction of eligible~~] projects. *The* [~~Such~~] service charges shall,

as appropriate in the individual cases and circumstances, be in addition to all other rates, rentals, and charges of a similar nature now or hereafter authorized by law and now or hereafter being levied and collected by *the* [~~such~~] governmental agencies. Counties and urban county governments, including counties containing metropolitan sewer districts, shall have the right to covenant with the authority to pay to the authority on an annual, automatically renewable basis, *the* [~~such~~] moneys and funds pursuant to an assistance agreement as shall enable the authority to amortize revenue bonds issued to provide *infrastructure* [~~eligible~~] projects to *the* [~~such~~] counties and urban county governments, subject to constitutional provisions;

(8) To covenant with the authority to mandatorily require the use of sanitary sewers by all persons owning, renting, or occupying premises generating pollution, where sewer service is reasonably available to such premises, and to exhaust all remedies for the collection of service charges, including termination of water service to delinquent sewer customers; and to promptly remit all service charges collected to the authority in accordance with the terms, conditions, and requirements of assistance agreements.

(9) *To covenant with the authority for the payment of state revenues, tax sharing or other state aid, with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to Section 230 of the Constitution of Kentucky, as the governmental agency may thereafter become entitled to receive from the state, to the authority or to a trustee until the time all delinquent payments by the governmental agency have been paid. If the authority and a governmental agency enter into an agreement, the state treasurer shall pay the pledged money in accordance with the provisions of the agreement* [~~To covenant with the authority to pledge and apply the proceeds of long term debt obligations issued by said governmental agencies to the payment and retirement of revenue bond anticipation notes issued by the authority on behalf of said governmental agencies~~].

Section 9. KRS 224A.100 is amended to read as follows:

The authority may enter into assistance agreements with governmental agencies, and governmental agencies may enter into assistance agreements with the authority in connection with *infrastructure* [~~eligible~~] projects. Each [~~such~~] assistance agreement shall be subject to *review by the capital construction and equipment purchase oversight committee of the legislative research commission before* approval by the *finance and administration cabinet* [~~state water pollution agency~~], may contain and include such provisions as may be agreed upon by the parties thereto, and shall include and prescribe the following provisions:

(1) An estimate of the reasonable cost of the *infrastructure* [~~eligible~~] project, as determined by the authority;

(2) The amount of *the total rentals under any lease of an infrastructure project, loans or* [~~state~~] grants to be made to the governmental agency, *financing payments or obligations of the governmental agency to be purchased by the authority*;

(3) The time or times at which *the rentals, loans or* [~~such state~~] grants, *financing payments or the purchase price of a governmental agency* shall become payable *by or* to the governmental agency;

(4) The specific purpose or purposes for which *the leased infrastructure project will be used or* the proceeds of *the purchase of obligations of the governmental agency or loan or grant* [~~state grants~~] made pursuant to the assistance agreement shall be expended;

(5) The conditions under which *the leased infrastructure project will be used or the proceeds of the purchase of obligations of the governmental agency or loan or grant* [~~state grants~~] may be expended on account of the *infrastructure* [~~eligible~~] project by the governmental agency;

(6) An agreement by the governmental agency:

(a) To proceed expeditiously with and promptly complete the *infrastructure* [~~eligible~~] project or cause same to be completed in accordance with plans and specifications approved by federal and state regulatory agencies;

(b) To commence or cause to be commenced operation of the *infrastructure* [~~eligible~~] project on completion of construction, and not to discontinue operations or dispose of such *infrastructure* [~~eligible~~] project without the approval of the authority [~~and the state water pollution agency~~];

(c) To operate and maintain or cause to be operated and maintained the *infrastructure* [~~eligible~~] project in accordance with the applicable provisions of federal and state law;

(d) To *disclose* [~~cooperate~~] fully *to* [~~with~~] the authority *all applications for or award of grants or loans for financial assistance* [~~and the state water pollution agency before applying for federal assistance for pollution abatement~~], if any;

(e) To provide for the payment of the governmental agency's share of the cost of the *infrastructure* [~~eligible~~] project, if the entire *infrastructure* [~~eligible~~] project is not financed by *assistance from the authority* [~~a state grant~~] and describe with specificity the manner in which the governmental agency proposes to finance its share of such cost, if any;

(7) A provision that, *if* [~~in the event federal grant~~] assistance which was not included in the calculation of the *loan or* [~~state~~] grant payable pursuant to subsection (2) of this section becomes available to the governmental agency, the amount of the *assistance from the authority* [~~state grant~~] shall be recalculated with the inclusion of *the* [~~such~~] additional [~~federal~~] assistance, and the governmental agency shall pay to the authority the amount, if any, by which the *loan or* [~~state~~] grant actually made, exceeds the *loan or* [~~state~~] grant [~~payment~~] as determined by the recalculation;

(8) The extent to which the *assistance from the authority* [~~state grant~~] shall be repaid to the authority, which shall not be less than the sum of the following, *except as provided under Sections 11 and 12 of this Act*:

(a) The aggregate principal amount of the *loan* [~~state grant~~]; and

(b) Interest on the aggregate balance of the principal amount of the *loan* [~~state grant~~] from time to time remaining unpaid, computed at the applicable interest rate, plus not to exceed *one-quarter of one percent (*1/4 of 1%*), except as provided for in Sections 11 and 12 of this Act.*

(9) The time or times and amounts when the repayments required by subsection (8) of this section shall be made by the governmental agency to the authority;

(10) The extent to which a service charge shall be imposed by the governmental agency. Any [~~such~~] service charge shall be calculated to produce amounts sufficient to meet the repayment schedule prescribed by subsection (8) of this section;

(11) An agreement between the governmental agency and the authority that upon any failure of the governmental agency to make payment to the authority in accordance with the time schedule and repayment schedule fixed by the assistance agreement of the amounts prescribed by said schedules, that in such event the authority may, without further action, require the state treasurer to pay to the authority such amount of other state revenues, tax sharing, or other state aid, [~~(~~]with the exception of funds in aid to education and funds derived from motor fuel taxes or vehicle license taxes pursuant to section 230 of the Constitution of Kentucky,[~~)~~] as the governmental agency may thereafter become entitled to receive from the state, until all delinquent payments pursuant to the repayment schedule, plus interest thereon, from the date of each delinquency at the *applicable interest* rate [~~of six percent (6%)~~] per annum, shall have been paid.

Section 10. KRS 224A.110 is amended to read as follows:

All moneys derived by the authority pursuant to [~~all~~] assistance agreements *other than those assistance agreements funded under Sections 11 and 12 of this Act* shall be received by the authority as constituting authority revenues, and shall, in common with [~~all~~] other authority revenues, be immediately deposited into *such funds or accounts as the authority shall designate* [~~an account designated as the "Kentucky Pollution Abatement Authority Revenue Fund"~~]. *Moneys derived by the authority pursuant to assistance agreements funded under Section 11 of this Act and all federal and state money or proceeds from the sale of revenue bonds of the authority received in support of assistance agreements funded under Section 11 of this Act shall be deposited into an account designated as the "federally assisted wastewater revolving fund." Moneys derived by the authority pursuant to assistance agreements funded under Section 12 of this Act and all state money or proceeds from the sale of revenue bonds of the authority received in support of Section 12 of this Act shall be deposited into an account designated as the "infrastructure revolving fund."* All authority revenues [~~from whatever source derived~~] shall, before being expended for any other purposes of the authority, first be applied to the payment of the principal of and interest on authority revenue bonds *in accordance with the resolution authorizing their* *issuance,* as, and when the same become due and payable.

SECTION 11. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The federally assisted wastewater revolving fund shall be established in the state treasury and shall be administered by the authority under an agreement with the natural resources cabinet to assure compliance with the federal act.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to government agencies for the construction of publicly owned treatment works as defined in Section 212 of the federal act and for the implementation of a management program established under Section 319 of the federal act and for the development and implementation of a conservation and management plan under Section 320 of the federal act.

(3) The authority may enter into grant agreements with the administrator of the United States environmental protection agency and accept capitalization grants for the revolving fund in accordance with payment schedules established with the administrator.

(4) All payments from the administrator pursuant to subsection (3) of this section shall be deposited in the dedicated revolving fund.

(5) The authority may issue its revenue bonds or seek appropriations for deposit into the revolving fund, including the amounts required to match the capitalization grants from the administrator. An amount not exceeding the amount permitted by the federal act may be used for the reasonable costs of administering the fund, for reviewing and regulating project construction and for other reasonable costs of complying with the federal act.

(6) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed twenty (20) years; that annual principal and interest payments will commence no later than when project construction is completed and all loans will be fully amortized not later than twenty (20) years after project construction is completed; that the recipient of a loan will establish a dedicated source of revenue for repayment of loans; and that the fund will be credited with all payments of principal and interest on all loans;

(b) Guaranteeing, or purchasing insurance for obligations of the fund where the action would improve credit market access or reduce interest rates;

(c) Providing moneys with which to carry out the requirements of assistance agreements; and

(d) Providing a source of revenue or security for the payment of principal and interest on bonds or notes issued by the authority or agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund.

(7) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity solely for its stated purposes.

(8) The authority shall obligate all payments from the administrator of the United States environmental protection agency as well as the required state match, within one (1) year after the receipt of the payments.

(9) Financial assistance may be provided from the fund only for those infrastructure projects which the finance and administration cabinet has approved from the prioritization schedule prepared by the natural resources cabinet.

(10) The authority may make and condition loans from the fund as required by state or federal law.

(11) The authority shall establish fiscal controls and accounting procedures sufficient to assure proper accounting during appropriate accounting periods for payments and disbursements received and made by the

revolving fund and for fund balances at the beginning and end of the accounting period.

(12) The authority or the natural resources cabinet may make or prepare any necessary or required plan or report.

(13) The authority or the natural resources cabinet or the loan recipient shall make available to the administrator of the United States environmental protection agency records which the administrator reasonably requires to review in order to determine compliance with any applicable provision of law.

(14) The authority may enter into any necessary or required agreement and give or make any necessary or required assurance or certification with any person to receive payments or grants or to make or provide any financial assistance.

(15) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

(16) If a loan is made from the federally assisted wastewater revolving fund which will finance the cost of facility planning and the preparation of plans, specifications, and estimates for construction of publicly owned treatment works, the state shall ensure that if the recipient of the loan receives a grant under Section 201(g) of the federal act for construction of such treatment works and an allowance under Section 201(1)(l) of the federal act for non-federal funds expended for the planning and preparation, the recipient shall promptly repay the loan to the extent of the allowance.

(17) Financial assistance may be provided from the federally assisted wastewater revolving fund only with respect to a project which is consistent with plans, if any, developed under Sections 205(j), 208, 303(e), 319, and 320 of the federal act, as amended.

(18) The authority shall require as a condition of making a loan or providing other assistance, as described in Section 9(6) of this Act, from the fund that the recipient of the assistance shall maintain project accounts in accordance with generally accepted governmental accounting standards.

(19) Assistance may be provided from the fund, other than under subsection (6)(a) of this section, to a governmental agency with respect to the non-federal share of the costs of a treatment works project for which the governmental agency is receiving assistance from the administrator of the United States environmental protection agency under any other authority only if the assistance, as determined by the finance and administration cabinet, is necessary to allow the project to proceed.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

(1) The infrastructure revolving fund shall be established in the state treasury and shall be administered by the authority.

(2) The fund shall be a dedicated fund and all moneys in the fund shall be dedicated solely to providing financial assistance to governmental agencies for the construction or acquisition of infrastructure projects when a governmental agency is unable to finance the entire infrastructure project for which it is seeking moneys from its own resources, through commercial credit at reasonable rates and under reasonable terms or through other public grant or loan programs, including the federally assisted wastewater revolving fund.

(3) The financial assistance which may be provided to governmental agencies by the revolving fund shall be limited to:

(a) Making loans, on the condition that the loans are made at or below market interest rates, including interest free loans, at terms not to exceed thirty (30) years and that the fund will be credited with all payments of principal and interest on all loans;

(b) Purchasing or guaranteeing, or purchasing insurance for, local or state obligations when the action would improve credit market access or reduce interest rates;

(c) Providing a source of revenue or security for the payment of principal and interest on bonds or notes

issued by the authority or other agencies of the state if the proceeds of the sale of the bonds will be deposited in the fund;

(d) Providing moneys with which to carry out the requirements of assistance agreements; and

(e) Making grants as funds specifically appropriated for grants or proceeds from the sale of the authority's revenue bonds are available when the authority finds that both a hardship and an extreme health hazard exist.

(4) The revolving fund shall be established, maintained and credited with repayments and the fund balance shall be available in perpetuity for its stated purposes.

(5) The authority may provide financial assistance from the fund to supplement assistance provided from the federally assisted wastewater revolving fund as created in Section 11 of this Act or for any infrastructure projects on the prioritization schedule prepared by the department of local government.

(6) The department of local government shall advise governmental agencies of the availability of the infrastructure revolving fund and how moneys may be obtained from the fund. In establishing its prioritization schedule, the department of local government shall consider the following factors:

(a) Local employment;

(b) The relationship of the infrastructure project to the governmental agency's capital investment plan;

(c) The relationship of the infrastructure project to the governmental agency's economic development;

(d) The reasonableness of the proposed costs;

(e) The probable effectiveness of the infrastructure project as proposed; and

(f) Any other criteria that the department of local government considers advisable.

(7) The authority may enter into any necessary or required agreement with federal or state agencies or persons to carry out the provisions of this section.

Section 13. KRS 224A.120 is amended to read as follows:

(1) The authority *may* [~~is hereby authorized and empowered to~~] provide, at one (1) time or from time to time, for the issuance of its Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority revenue bonds, for the purpose of providing funds and moneys to the authority to enable it to enter into assistance agreements with governmental agencies, *acquire and lease infrastructure projects to governmental agencies, purchase obligations of governmental agencies issued for infrastructure projects* and [~~thereby~~] make *loans or* [~~state~~] grants for *infrastructure* [~~eligible~~] projects, and to enable the authority generally to carry out and effectuate its proper corporate purposes. In anticipation of the issuance of *the* [~~such~~] revenue bonds, the authority *may* [~~is specifically authorized and empowered to~~] provide for the issuance at one time, or from time to time, of revenue bond anticipation notes pursuant to the general laws of *the state* [~~Kentucky~~]. The principal of and the interest on *the* [~~such~~] revenue bonds or notes shall be payable solely from authority revenues[~~, as defined in this chapter~~]. Any such notes [~~issued~~] may be made payable from the proceeds of bonds or renewal notes, or in the event bond or renewal note proceeds are not available, or should the authority deem it financially practicable to pay *the* [~~such~~] notes directly from authority revenues, *the* [~~such~~] notes may be paid from any available authority revenues.

(2) The revenue bonds or notes of the authority shall be dated and may be redeemable prior to maturity at the option of the authority at [~~such~~] prices and under [~~such~~] terms and conditions [~~as may be~~] determined by the authority. Any [~~such~~] bonds or notes shall bear interest at *the* [~~such~~] rate or rates, *shall be payable annually or at shorter intervals and may bear conversion privileges* [~~as may be~~] determined by the authority. Notes shall mature at *the* [~~such~~] time or times not exceeding five (5) years from their date or dates, and revenue bonds shall mature at *the* [~~such~~] time or times not exceeding forty (40) years from their date or dates as may be determined by the authority. The authority shall determine the form and manner of execution of the bonds or notes, and shall fix the denomination or denominations and the place or places of payment

of principal and interest, which may be any bank or trust company within or without the state. In case any officer of the authority whose signature or facsimile of whose signature shall appear on any revenue bonds or notes, shall cease to be such officer before the delivery thereof, *the* [~~such~~] signature or *the* [~~such~~] facsimile shall[~~, nevertheless,~~] be valid and sufficient for all purposes, the same as if *the* [~~such~~] officer had remained in office until *the* [~~such~~] delivery. *At the time of issuance of variable rate revenue bonds, the authority may designate individuals or institutions which, in the sole judgment of the authority, have financial market expertise to serve as agent for the authority for establishing and changing from time to time, while the variable rate revenue bonds remain outstanding, the rate of interest to be borne by and the price to be paid for the revenue bonds. The rate-setting procedures and authority of each agent shall be set forth in writing, and may include a formula or an index or indices based upon market factors, and shall be established by the authority at the time of issuance of the revenue bonds. At the time of the issuance of the revenue bonds, the authority shall establish the maximum interest rate to be borne by the revenue bonds. The authority shall retain the right to remove or replace any agent at any time and for any reason.* The authority may provide that said bonds or notes may be executed only with the facsimile signatures of its officers, but said bonds or notes shall be executed with the manual signature of a bank or trust company designated by the authority as registrar and paying agent.

(3) All revenue bonds or notes issued under the provisions of this chapter shall have and are hereby declared to possess all of the qualities and incidents of negotiable instruments under the laws of *the state* [~~Kentucky~~]. The authority may sell *the* [~~such~~] revenue bonds or notes in *the* [~~such~~] manner, either at public or private *negotiated* sale, and for *the* [~~such~~] price, as it may determine will best effect the purpose of this chapter. *If revenue bonds are sold at public, competitive sale, the revenue bonds shall be sold after newspaper advertising conforming to the requirements of KRS Chapter 424 and competitive bids for the sale of the revenue bonds shall be opened and read publicly by the authority at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.*

(4) In its proceedings authorizing the issuance of revenue bonds or notes, the authority shall fix and determine contractual provisions with the bondholders relating to the receipt, allocation, pledging, and disbursement of authority revenues, and may enact and determine terms, conditions, and restrictions pursuant to which additional revenue bonds of the authority may be authorized and issued from time to time. *The*[~~; Provided, however, that such~~] proceedings, determinations and enactments of the authority shall specify that the payment of principal of and interest on all authority revenue bonds and notes shall constitute a first charge and lien against all authority revenues before any [~~such~~] authority revenues are used, applied, and disbursed for any other valid purposes of the authority, including the payment of operation and maintenance costs incident to the operation of the authority.

(5) The proceeds of all revenue bonds or notes shall be used solely for the purpose of enabling the authority to enter into assistance agreements or interim financing agreements with governmental agencies, *to acquire and lease infrastructure projects to governmental agencies, to purchase obligations of governmental agencies issued for infrastructure projects, to* [~~and~~] make *loans or* [~~state~~] grants to *the* [~~such~~] governmental agencies for *infrastructure* [~~eligible~~] projects *or for any other purpose authorized by law.*[~~; Provided, however, that~~] Interest coming due on *the* [~~said~~] revenue bonds or notes, for not to exceed three (3) years, together with a debt service reserve equal to two (2) times the maximum principal and interest requirements to come due during any fiscal year ending June 30, in connection with *the* [~~said~~] revenue bonds or notes, may be capitalized from bond proceeds, it being determined and recognized that *infrastructure* [~~eligible~~] projects, for which *loans or* [~~state~~] grants are made, may in some cases not become fully revenue-producing for a period of time coincident with the construction period of *the infrastructure* [~~such eligible~~] projects. Revenue bond or note proceeds may also be utilized, used and applied for the payment of ordinary and necessary expenses in connection with issuance of *the* [~~such~~] revenue bonds or notes, including, but not by way of limitation, a sum equal to any discount in the sale of revenue bonds or notes, [~~(~~]if discount bids are authorized and permitted by the authority[~~)~~], administrative expenses, including the preparation of revenue bonds or notes, publication of notices, printing and other costs, attorneys' fees, and other ordinary and necessary costs of financing, including the payment of fees to fiscal agents for advice and assistance in the preparation and marketing of revenue bonds or notes.

(6) Prior to the preparation of definitive revenue bonds or notes, the authority may, under like restrictions, issue interim receipts or temporary bonds, exchangeable for definitive revenue bonds or notes when *the* [~~such~~] revenue bonds or notes shall have been executed, and are available for delivery. The authority may also provide for the replacement of any revenue bonds or notes *that* [~~which~~] shall have become mutilated or shall have been destroyed or lost. Revenue bonds or notes may be issued under the provisions of this chapter directly by the authority without obtaining the consent or acquiescence of any cabinet, division, commission, board, department or agency of the *state other than the finance and administration cabinet* [~~Commonwealth of Kentucky~~], and without any other proceedings or the happening of any other conditions or things except as specifically required by this chapter[~~,~~] and the provisions of the resolution or resolutions of the authority authorizing

the issuance of *the* [~~such~~] revenue bonds or notes[~~; provided, however, nothing in this chapter shall be construed as removing any governmental agency from the jurisdiction of any such cabinet, division, commission, board, department or agency of the Commonwealth of Kentucky otherwise established by law as a prerequisite for financing commitments~~].

Section 14. KRS 224A.180 is amended to read as follows:

(1) In order to protect the public health, safety, and welfare, and in order to assure the prompt and necessary payment to the authority of all monetary requirements arising from assistance agreements entered into by and between the authority and the governmental agencies, and thereby assure the financial integrity of the authority, and the prompt payment of principal of and interest on revenue bonds and notes issued by the authority, the authority *may* [~~is specifically authorized~~], *if* [~~in the event~~] any governmental agency which is a party to an assistance agreement fails to promptly and duly perform all of the terms and conditions of *the* [~~such~~] assistance agreement, to directly impose, in the authority's name and for the authority's benefit, service charges upon all users of the *infrastructure* [~~eligible~~] project constructed pursuant to *the* [~~such~~] assistance agreement, and to proceed to directly enforce and collect *the* [~~such~~] service charges, together with all necessary costs of *the* [~~such~~] enforcement and collection, in the name of the authority and for the benefit of the authority.

(2) In addition to the powers conferred by subsection (1) of this section, the authority may, upon the occurrence of any [~~such~~] event of default by *the* [~~such~~] governmental agencies, mandatorily require the owner, tenant, or occupant of each and every lot or parcel of land which abuts upon a street or other public way containing a sanitary sewer *or drinking water facility*, and upon which lot or parcel of land an improvement exists for residential, commercial, or industrial use, or where a sanitary sewer *or drinking water facility* is reasonably available to serve *the* [~~such~~] improved lot or parcel of land, to forthwith connect *the* [~~such~~] improvement to *the* [~~such~~] sanitary sewer *or drinking water facility*[~~;~~] and to cease to use any other means for the disposal of sewage, sewage waste, or other pollutants.

(3) In the implementation of *its* [~~such~~] enforcement authority, the authority shall have and possess all of the powers of incorporated municipalities which are granted by KRS 96.930 to 96.943, providing for the termination of water services to any premises where the bill for sewer services is delinquent.

(4) The authority *may* [~~is further expressly authorized and empowered~~] by suit, action, mandamus, or other proceedings, [~~to~~] compel performance by governmental agencies of all of the terms and conditions of assistance agreements, including, inter alia, the adjustment and increase of service charges as required to meet the needs of any assistance agreement, and the enforcement and collection of *the* [~~such~~] service charges.

SECTION 15. A NEW SECTION OF KRS CHAPTER 224A IS CREATED TO READ AS FOLLOWS:

The authority, the natural resources cabinet or the department of local government may promulgate administrative regulations to implement Sections 11 and 12 of this Act.

Section 16. KRS 224A.260 is amended to read as follows:

(1) The Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority may finance pollution control facilities in the manner provided by KRS 103.246. For such purposes, the terms "city" and "county" as used in KRS 103.246 shall also mean and refer to the Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority.

(2) The authority may enter into *the* [~~such~~] agreements with the United States small business administration as shall be necessary in connection with the financing of pollution control facilities in order to provide for the guarantee of bonds or notes of the Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority by the United States small business administration.

(3) The authority granted to the Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority by this section shall not include the power to acquire property, rights of way or easements by condemnation.

(4) Neither the Kentucky *infrastructure* [~~pollution abatement and water resources finance~~] authority nor the *state* [~~Commonwealth~~] or any political subdivision of the *state* [~~Commonwealth~~] shall be pecuniarily responsible or liable in any manner for the payment of principal of and interest on bonds or notes issued

by the authority under this section. *The* [~~Such~~] bonds or notes shall be payable solely from revenues, receipts and payments derived from the lease, sale or vesting of *the* [~~such~~] pollution control facilities in and to industrial concerns and utility companies with whom the authority contracts.

Section 17. The following KRS sections are repealed:

151.330 Water resources authority — Membership — Quorum — Officers — Executive board.

151.340 Executive director — Appointment — Duties.

151.350 Attorney general as legal officer.

151.360 Contracts with federal government for water resources projects — Participation in projects — Coordination of programs.

151.370 Powers of authority — Land acquisition.

151.380 Water resources fund, creation, uses.

151.390 Loans to governmental agencies for water resources project.

151.400 Loans — Interest rate — Security.

151.410 Application for assistance on water resources projects.

151.420 Revenue bonds for water resources projects — Use of proceeds — Interim receipts or temporary bonds — Tax exemption.

151.430 Payment of revenue bonds, source.

151.440 Revenue bonds, how secured — Trust indenture, contents.

151.450 Rights of holder of bonds or trustee.

224A.010 Definitions.

224A.075 Financing of solid waste management facilities.

Section 18. The General Assembly, finding that the receipt of moneys from the United States government may be substantially delayed or lost if this statute is not promptly enacted, that infrastructure projects would be delayed thereby and further that an emergency therefore exists, hereby declares that this statute shall take effect immediately upon enactment and approval by the Governor.

HB 310, AN ACT relating to dams and reservoirs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.110 is amended to read as follows:

(1) The conservation, development and proper use of the water resources of the Commonwealth of Kentucky have become of vital importance as a result of population expansion and concentration, industrial growth, technological advances and an ever increasing demand for water for varied industrial, municipal and recreational uses. It is recognized by the general assembly that excessive rainfall during certain seasons of the year causes damage from overflowing streams. However, prolonged droughts at other seasons curtail industrial, municipal, agricultural and recreational uses of water and seriously threaten the continued growth and economic well-being of the Commonwealth. The advancement of the safety, happiness and welfare of the people and the protection of property require that the power inherent in the people be utilized to promote

and to regulate the conservation, development and most beneficial use of the water resources. It is hereby declared that the general welfare requires that the water resources of the Commonwealth be put to the beneficial use to the fullest extent of which they are capable, that the waste or nonbeneficial use of water be prevented, and that the conservation and beneficial use of water be exercised in the interest of the people. Therefore, it is declared the policy of the Commonwealth to actively encourage and to provide financial, technical or other support for projects that will control and store our water resources in order that the continued growth and development of the Commonwealth might be assured. To that end, it is declared to be the purpose of KRS chapters 146, 149, 151, 224, 262 and 350.029 and 433.750 to 433.757 for the Commonwealth to permit, regulate, and participate in the construction or financing of facilities to store surplus surface water for future use; to conserve and develop the ground water resources of the Commonwealth; to protect the rights of all persons equitably and reasonably interested in the use and availability of water; to prohibit the pollution of water resources and to maintain the normal flow of all streams so that the proper quantity and quality of water will be available at all times to the people of the Commonwealth; to provide for the adequate disposition of water among the people of the Commonwealth entitled to its use during severe droughts or times of emergency; to prevent harmful overflows and flooding; to regulate the construction, maintenance and operation of all dams and other barriers of streams; to prevent the obstruction of streams and floodways by the dumping of substances therein; to keep accurate records on the amount of water withdrawal from streams and watercourses and reasonably regulate the amount of withdrawal of public water; and to engage in other activities as may be necessary to conserve and develop the water resources of the Commonwealth of Kentucky.

(2) Furthermore, it is also the declared policy of the Commonwealth to conserve as working water resource developments those dams and reservoirs constructed in the Commonwealth prior to 1966, and the rules and administrative regulations to carry out the purposes of this chapter or other applicable water resources statutes shall reflect that policy.

Section 2. KRS 151.125 is amended to read as follows:

The secretary shall exercise the following authority and powers:

(1) To administer and enforce the provisions of this chapter and all rules and regulations and orders promulgated thereunder;

(2) To conduct or obtain investigations, research, experiments, training programs and demonstrations, and to collect and disseminate information relating to the safe construction, operation, or maintenance of dams and reservoirs;

(3) To adopt, after giving public notice and affording an opportunity to all interested persons to appear and offer evidence at a public hearing in connection therewith, general rules and regulations for flood control and water resources which he deems necessary to accomplish the purposes of this chapter. Such rules and regulations, which shall have the force and effect of law, shall be of uniform application as far as practicable, but they may take proper account of differences in topography, geology, soil conditions, climate, hydrology, *age of dam, size of reservoir,* and use of the reservoir and the lands lying in the floodplain downstream from the dam; *however,*

(a) Once a dam or reservoir has been constructed, the person who is the owner of the structure shall not be required by the cabinet to upgrade that structure to a higher classification, if adjoining or other downstream property owners choose to develop the floodplain downstream from that dam or reservoir; and

(b) The hydrologic criteria for the spillways and freeboard of dams built before 1966 shall be based on the five hundred (500) year design storm figures extrapolated from figures published in technical paper number forty (40), rainfall frequency atlas of the United States weather bureau, U.S. department of commerce;

(4) To adopt, without notice or hearing, rules and regulations with respect to procedural aspects of hearings, the filing of reports and orders, the issuance of certificates of inspection, construction permits, water withdrawal permits, and other procedural matters;

(5) To issue orders requiring the adoption by an owner of remedial measures necessary for the safety of life, or public or private property, or for carrying out the provisions of this chapter, or rules and regulations issued thereunder;

(6) To examine and approve or disapprove applications for construction permits for the construction,

enlargement, repair, or alteration of a dam;

(7) To establish standards for the safe construction, enlargement, repair, alteration, maintenance, or operation of a dam or reservoir. Such standards shall be issued in the form of regulations as described in subsection (3) of this section;

(8) To make such investigations or inspections as necessary to determine the condition of a dam to insure compliance with any provisions of this chapter, including the right to enter at any time upon an area affected for such purposes and the right of ingress and egress across intervening properties;

(9) To order the suspension or revocation, after warning, of any certificate of inspection, construction permit, or water withdrawal permit for failure to comply with any of the provisions of this chapter or with any rules, regulations or orders adopted pursuant thereto, or with any of the conditions contained in or attached to the certificate of inspection, construction permits, or water withdrawal permits;

(10) To order the immediate cessation of any act that is started or continued without a construction permit or water withdrawal permit as required by the provisions of this chapter.

(11) To institute and prosecute all such court actions as may be necessary to obtain the enforcement of any order issued by the department in carrying out the provisions of this chapter.

The Committee Substitute to **HB 310** is as follows:

HB 310, AN ACT relating to dams and reservoirs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.100 is amended to read as follows:

As used in KRS 151.100 to 151.460 and 151.990, the words listed herein shall have the following respective meanings, unless another or different meaning or intent shall be clearly indicated by the context:

(1) The word "authority" shall mean the water resources authority of Kentucky;

(2) The word "cabinet" shall mean the natural resources and environmental protection cabinet;

(3) The word "stream" or "watercourse" shall mean any river, creek or channel, having well defined banks, in which water flows for substantial periods of the year to drain a given area, or any lake or other body of water in the Commonwealth;

(4) The word "diffused surface water" shall mean that water which comes from falling rain or melting snow or ice, and which is diffused over the surface of the ground, or which temporarily flows vagrantly upon or over the surface of the ground as the natural elevations and depressions of the surface of the earth may guide it, until such water reaches a stream or watercourse;

(5) The word "ground water" or "subterranean water" shall mean all water which fills the natural openings under the earth's surface including all underground watercourses, artesian basins, reservoirs, lakes, and other bodies of water below the earth's surface;

(6) The word "floodway" shall mean that area of a stream or watercourse necessary to carry off flood water as determined by the secretary

(7) The word "floodplain" shall mean the area in a watershed that is subject to inundation;

(8) The word "watershed" shall mean all of the area from which all drainage passes a given point downstream;

(9) The word "domestic use" shall mean the use of water for ordinary household purposes, and drinking water for poultry, livestock, and domestic animals;

(10) The word "water resources project" or "project" shall mean any structural or nonstructural study, plan, design, construction, development, improvement or any other activity including programs for management, intended to conserve and develop the water resources of the Commonwealth and shall include all aspects of water supply, flood damage abatement, navigation, water-related recreation, and land conservation facilities and measures;

(11) The word "withdraw" or "withdrawal of water" shall mean the actual removal or taking of water from any stream, watercourse or other body of public water;

(12) The word "dam" shall mean any artificial barrier, including appurtenant works, which does or can impound or divert water, and which either:

(a) Is or will be twenty-five (25) feet or more in height from the natural-bed of the stream or watercourse at the downstream toe of the barrier, as determined by the cabinet; or

(b) Has or will have an impounding capacity at maximum water storage elevation of fifty (50) acre-feet or more;

(13) *"Embankment dam" shall mean any dam constructed of excavated natural materials or of industrial waste materials;*

(14) "Gravity dam" shall mean a dam constructed of concrete or masonry that relies on its weight for stability;

(15) The word "person" shall mean any individual, public or private corporation, political subdivision, government agency, municipality, co-partnership, association, firm, trust, estate, or other entity whatsoever;

(16)[~~(14)~~] "Secretary" shall mean the secretary of the natural resources and environmental protection cabinet;

(17)[~~(15)~~] "Authorized representative" shall mean an individual specifically authorized by the secretary to act in his behalf;

(18)[~~(16)~~] The word "reservoir" shall mean any basin which contains or will contain the water impounded by a dam;

(19)[~~(17)~~] "Owner" shall mean any person who owns an interest in, controls, or operates a dam.

Section 2. KRS 151.293 is amended to read as follows:

(1) Within sixty (60) days of completion of an on-site inspection of an existing dam the cabinet may either grant a certificate of inspection, or deny the certificate of inspection and notify the owner in writing, stating the reasons for denial.

(2) In deciding whether or not a certificate of inspection should be issued, the cabinet shall take into account all pertinent facts and conditions, but shall not issue a certificate unless the following conditions have been met:

(a) The proposed action in the judgment of the cabinet will be conducted in such a way that the safety of the public is adequately provided for;

(b) All information requested by the cabinet has been provided; and

(c) The changed flow of the stream or level of the reservoir will not significantly interfere with a beneficial use by other water users.

(3) In granting a certificate of inspection, the cabinet may impose such conditions relating to the inspection, operation, maintenance, alteration, repair, use, or control of a dam or reservoir as it determines are necessary for the protection of public health, safety or welfare.

(4) The cabinet may establish hazard categories for dams based on downstream floodplain use, size, or type of dam, or other criteria, and may impose different conditions or types of conditions on the approval of dams or reservoirs in the different categories. *The hazard categories in all cases shall be based only on the actual risk imposed by the dam.*

(5) The cabinet may utilize the results and information provided by or for the United States army corps of engineers pursuant to the provisions of Public Law 92-367 if the information is not more than one (1) year old at the time of use.

(6) Certificates of inspection shall be for a definite period of time, not to exceed five (5) years, as determined by the cabinet and stated on the certificate. In determining the period of inspection, the cabinet may take account of any circumstances pertinent to the situation, including, but not limited to, the size and type of dam, topography, geology, soil conditions, hydrology, climate, use of the reservoir, the lands lying in the floodplain downstream from the dam, and the hazard category of the dam.

(7) The cabinet may modify a certificate of inspection or the conditions attached to it. Such modification shall become effective ninety (90) days following issuance by the cabinet of a revised certificate, except when the cabinet finds that a state of emergency exists and that life or property would be endangered by delay. In case of an emergency declared by the cabinet, the new conditions shall be effective immediately.

(8) Specific guidelines for issuance and renewal of certificate of inspection *for earth embankment dams* shall be provided by *administrative* regulations *which shall address at least the following areas:*

(a) The hydraulic capacity requirements for each category of dam shall be provided. The probable maximum precipitation as determined by the U.S. weather service shall be used only where it can be clearly demonstrated that failure of the dam by overtopping would result in greater loss of life than would occur if the dam did not exist and only for small watersheds, since such large rainfall events are not expected to occur over large areas. The cabinet shall provide a table of factors that reduce this rainfall appropriately for larger watersheds;

(b) Minimum criteria for the embankment stability of the dam, including consideration of such factors as steepness of slopes, strength of materials, and earthquake loadings shall be specified;

(c) Variance procedures for applicable hydraulic and stability considerations shall be included for, but not limited to, variances to hydraulic criteria where only a small number of persons are at risk and where a reliable, effective emergency preparedness system will be installed; where a risk analysis demonstrates that at rainfall levels less than that specified in the administrative regulation there is no risk that actually results from the dam; where an owner can demonstrate that the dam substantially conforms to the criteria in the administrative regulation; and, for dams that pose a risk of economic damages only, where the owner provides indemnification against potential damages;

(d) Before any variance is issued, the affected public shall be notified of the cabinet's intended action and allowed to make known any objections or concerns that it might have;

(e) Whenever the owner of a dam has requested a variance and the request has not been granted or has not been granted in the manner requested, the owner or aggrieved party may petition the cabinet to have the variance request and the cabinet's preliminary decision on it reviewed by an unbiased, three-person panel of qualified experts to be named by the environmental quality commission in consultation with the Kentucky water research institute. The panel shall make non-binding recommendations to the cabinet with regard to these matters. After reviewing the recommendations, the cabinet will make a final determination on the variance. If not satisfied by the finding of the panel or the determination of the cabinet, the party may seek administrative remedy from the cabinet under the provisions of KRS 151.182;

(f) Items of general maintenance of a dam shall include provisions for at least the following: dams shall be mowed regularly; dams shall be free of trees and brush; animal burrows shall not be allowed on dams; slides, erosion and cracks that could pose problems to dams shall be properly repaired; action shall be taken to alleviate excessive wetness and abnormal seepage; appurtenances that are necessary for the proper operation and maintenance of the dam shall be kept in proper working condition;

(g) Provisions shall be made whereby the cabinet will allow for staged renovation of dams that do not meet the criteria of the regulations and shall clearly identify the circumstances under which staging is allowable and set a maximum time limit that may be allowed for bringing the dam into compliance. Other provisions shall require the owner to develop and maintain an emergency action plan, to provide interim insurance, bonding or other indemnification, and on a frequent basis as specified by the cabinet, to inspect the dam and report to the cabinet the status of any facilities or conditions of concern; and

(h) If the cabinet has previously required a dam to be upgraded to meet a certain dam safety standard, it shall not require that the dam be upgraded again because of a change in the administrative regulation with regard to that same standard. However, if the owner proposes substantial construction on the dam or if the dam must be repaired due to indications of distress or to partial failure, the cabinet may require the owner to bring the dam into full compliance with current standards.

(9) *The cabinet shall establish guidelines on a case-by-case basis for gravity dams and other types of dams that are unusual to the Commonwealth, and shall follow recognized engineering practice.*

(10) Plans and specifications submitted to the cabinet shall be the responsibility of and signed by an engineer licensed by the Commonwealth and experienced in the design and construction of dams, as determined by the cabinet.

HB 500, AN ACT relating to surface coal miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 351.128 TO 351.130 IS CREATED TO READ AS FOLLOWS:

Surface coal miners shall receive the same first-aid training as provided to underground coal miners.

The Committee Substitute to **HB 500** is as follows:

HB 500, AN ACT relating to surface coal miners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 351.128 TO 351.130 IS CREATED TO READ AS FOLLOWS:

(1) All surface coal miners shall receive instruction in first-aid methods and be certified by the commissioner as having completed a course of such instruction before being employed at or on any surface coal mining operation. The commissioner shall certify all such surface coal miners who complete ten (10) hours of instruction in first-aid techniques and equipment.

(2) In order to retain such certification, all surface coal miners shall thereafter annually complete five (5) hours of retraining in first-aid techniques and equipment.

HB 673, AN ACT relating to surface and underground mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator, or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department and such requests shall be accompanied by a U.S. postal money order or cashier's check drawn in favor of the state treasurer in a reasonable amount established by regulations promulgated by the commissioner of a minimum of one hundred dollars ($100) and a maximum of one thousand dollars ($1,000). When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the department of workers' claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the department of workers' claims, or upon receipt of notice from the secretary of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said administrative function shall lie in the Fayette Circuit Court.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(5) The department shall be authorized to seek injunctive relief for any violation of this section.

(6) [~~The application for a license shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the bureau of vehicle regulation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges.~~

~~(7)~~] A license which has been revoked under the "delinquent taxpayer" provision shall not be re-issued until a written tax clearance has been received from the secretary of revenue.

(7)[~~(8)~~] No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 2. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The natural resources and environmental protection cabinet shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight (8) month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) ten percent (10%) or more of any class of voting stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to thet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet

meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(11) [~~The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the transportation cabinet attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.~~

~~(12)~~] In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(12)[~~(13)~~] The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(13)[~~(14)~~] A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the penal sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(14)[~~(15)~~] Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the cabinet require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(15)[~~(16)~~] The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(16)[~~(17)~~] Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;

Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(17)[~~(18)~~] If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(18)[~~(19)~~] Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(19)[~~(20)~~] Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(20)[~~(21)~~] Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(21)[~~(22)~~] All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

The Committee Substitute to **HB 673** is as follows:

HB 673, AN ACT relating to surface and underground mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.175 is amended to read as follows:

(1) Within forty-five (45) days after January 1, 1953, and of each year thereafter, the owner, operator, or lessee of each mine shall procure from the department a license to operate such a mine, and such license shall not be transferable. Any owner, operator, or lessee who assumes control of a mine, opens a new mine or reopens an abandoned mine during any calendar year shall procure such license before mining operations are begun.

(2) The license shall be in such printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(3) Requests for such license shall be made to the department and such requests shall be accompanied by a U.S. postal money order or cashier's check drawn in favor of the state treasurer in a reasonable amount established by regulations promulgated by the commissioner of a minimum of one hundred dollars ($100) and a maximum of one thousand dollars ($1,000). When the annual report of the operator and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the department of workers' claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342, are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the department of workers' claims, or upon receipt of notice from the secretary of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license hereunder issued. Revocation of said license shall be an administrative function of the department. Appeal of said administrative function shall lie in the Fayette Circuit Court.

(4) The mine inspector shall have the authority to stop production at the mine of any operator who fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(5) The department shall be authorized to seek injunctive relief for any violation of this section.

(6) The application for a license shall be accompanied by a transportation plan [~~which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals~~]. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. [~~The transportation plan shall contain a certification by a duly authorized official of the bureau of vehicle regulation attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges~~].

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be re-issued until a written tax clearance has been received from the secretary of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 2. KRS 350.060 is amended to read as follows:

(1) No person shall engage in surface coal mining and reclamation operations without having first obtained from the cabinet a permit designating the area of land affected by the operation. Permits shall authorize the operator to engage in surface coal mining and reclamation operations upon the area of land described in his application for a period of not to exceed five (5) years; provided that if an applicant demonstrates that a specified longer term is reasonably needed to obtain necessary financing for equipment and the opening of the operation and if the application is full and complete for such specified longer term, the cabinet may grant a permit for such longer term. No mining shall be permitted beyond the time period obligations of the initial or extended bond coverage.

(2) All operators who wish to engage in surface coal mining and reclamation operations and who have a valid permit from the cabinet and who are in expectation of operating such mines after the expiration of eight (8) months from the approval by the secretary of the interior of the permanent regulatory program shall within two (2) months of the effective date of such approval apply for a new permit for such mines in compliance with the requirements of this section. The natural resources and environmental protection cabinet shall establish procedures and programs consistent with this chapter to issue or deny such permits within eight (8) months of such approval. The general assembly finds the fact that, due to the large number of permitted operations within the Commonwealth, the eight (8) month period may be administratively impracticable, and hereby authorizes the secretary to devise procedures to comply with this section in the

most expeditious and reasonable manner possible, and a filing shall be deemed timely for the purposes of this subsection and surface coal mining operations may continue under an existing permit if that filing is in substantially complete form and submitted within the time limits set forth herein.

(3) Any permit validly issued by the cabinet under the interim regulatory program in effect on March 21, 1980 and which would expire at any time after May 1, 1980 and before eight (8) months after approval of the permanent regulatory program by the United States secretary of the interior, shall be extended and remain in effect until eight (8) months after approval of the permanent regulatory program. Any interim permit so extended shall continue as a valid existing permit for purposes of this subsection if the permittee so requests and files an application for a permit with the cabinet within two (2) months of the date of approval of the permanent regulatory program. The permittee may conduct operations under that existing permit beyond the eight (8) month period if an application has been filed in accordance with this subsection, but the initial administrative decision has not been rendered.

(4) No permit or revision application shall be approved unless the application affirmatively demonstrates and the cabinet finds in writing on the basis of the information set forth in the application or from information otherwise available, that the permit application is accurate and complete and that all the requirements of this chapter have been complied with.

(5) An operator desiring a permit to engage in surface coal mining operations shall file an application which shall state:

(a) The location and area of land to be affected by the operation, with a description of access to the area from the nearest public highways;

(b) The owner or owners of the surface of the area of land to be affected by the permit and the owner or owners of all surface area adjacent to any part of the affected area;

(c) The owner or owners of the coal to be mined;

(d) The source of the applicant's legal right to mine the coal on the land affected by the permit;

(e) The permanent and temporary post-office addresses of the applicant;

(f) Whether the applicant or any person, partnership or corporation associated with the applicant holds or has held any other permits under this chapter, and an identification of such permits;

(g) Whether or not the applicant is in compliance with subsection (3) of KRS 350.130 and whether or not every officer, partner, director or any individual owning of record or beneficially (alone or with associates) ten percent (10%) or more of any class of voting stock of the applicant, is subject to any of the provisions of subsection (3) of KRS 350.130 and he shall so certify;

(h) A listing of any and all violations of this chapter, Public Law 95-87, and any law, rule or regulation in effect for the protection of air or water resources incurred by the applicant in connection with any surface coal mining and reclamation operation during the three (3) year period prior to the date of an application. Such a list shall indicate the final resolution of the violations; and

(i) Whether the area of land to be affected by the operation has been previously mined and is not in compliance with current reclamation standards, if so then identify the needed reclamation work.

(6) The application for a permit shall be accompanied by an official document (and an affidavit attesting to the document's authenticity) which will evidence what particular business entity the applicant is, whether a foreign or domestic corporation, a partnership, an entity doing business as another, or, if sole proprietorship, then an affidavit so stating.

(7) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of a United States geological survey topographic map or such other map acceptable to the cabinet on which the operator has indicated the location of the operation, the course which would be taken by drainage from the operation to the stream or streams to which such drainage would normally flow, the name of the applicant

and date, and the name of the person who located the operation on the map.

(8) The application for a permit shall be accompanied by copies, in numbers satisfactory to the cabinet, of an enlarged United States geological survey topographic map or such other map acceptable to the cabinet meeting the requirements of paragraphs (a) to (i) of this subsection. The map shall:

(a) Be prepared and certified by a professional engineer, registered under the provisions of KRS Chapter 322. The certification shall be in the form as provided in subsection (10) of this section, except that the engineer shall not be required to certify the true ownership of property under paragraph (d) of this subsection;

(b) Identify the area to correspond with the application;

(c) Show adjacent deep mining;

(d) Show the boundaries of surface properties and names of owners of the affected area and adjacent to any part of the affected area;

(e) Be of a scale of 1:24,000 or larger;

(f) Show the names, and locations of all streams, creeks, or other bodies of public water, roads, buildings, cemeteries, oil and gas wells, and utility lines on the area of land affected and within five hundred (500) feet of such area;

(g) Show by appropriate markings the boundaries of the area of land affected, the cropline of the seam or deposit of coal to be mined, and the total number of acres involved in the area of land affected;

(h) Show the date on which the map was prepared, the north point and the quadrangle name; and

(i) Show the drainage plan on and away from the area of land affected. Such plan shall indicate the directional flow of water, constructed drainways, natural waterways used for drainage, and the streams or tributaries receiving the discharge.

(9) Each application shall include a determination of the probable hydrologic consequences of the mining and reclamation operations, both on and off the mine site, with respect to the hydrologic regime, quantity and quality of water in surface and groundwater systems, including the dissolved and suspended solids under seasonal flow conditions and the collection of sufficient data for the mine site and surrounding areas so that an assessment can be made by the cabinet of the probable cumulative impacts of all anticipated mining in the area upon the hydrology of the area and particularly upon water availability; provided, however, that this determination shall not be required until such time as hydrologic information on the general area prior to mining is made available from an appropriate federal or state agency. Provided further, that the permit shall not be approved until such information is available and is incorporated into the application.

(10) All certifications required by this chapter to be made by professional engineers shall be done in the form prescribed by the cabinet and shall be reasonably specific as to the work being certified. The cabinet may reject any document or map as incomplete if it is not properly certified.

(11) [~~The application shall be accompanied by a transportation plan which shall set forth the portions of the state primary road system, if any, over which the applicant proposes to transport minerals extracted in the mining operation. The transportation plan shall specify the legal weight limits for each portion of any such highway or bridge over which the applicant proposes to transport minerals. The transportation plan shall include any proposal by the applicant to obtain a special permit pursuant to the provisions of KRS 189.271 to exceed the weight limits on any highway or bridge. The transportation plan shall contain a certification by a duly authorized official of the transportation cabinet attesting the accuracy of the transportation plan in regard to the locations and identities of highways and bridges on the state primary road system and the accuracy of the specifications of weight limits on such highways and bridges. All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.~~

~~(12)~~] In addition to the information and maps required above, each application for a permit shall be accompanied by detailed plans or proposals showing the method of operation, the manner, time and distance for backfilling, grading work and a reclamation plan for the affected area, which proposals shall meet the requirements of this chapter and rules and regulations adopted pursuant thereto.

(12)[~~(13)~~] The application for a permit shall be accompanied by proof that the applicant has public liability insurance coverage satisfactory to the cabinet for the surface mining and reclamation operations for which the permit is sought, or proof that the applicant has satisfied self-insurance requirements as provided by regulations of the cabinet. Such coverage shall be maintained in full force and effect during the terms of the permit and any renewal thereof, and until reclamation operations are completed.

(13)[~~(14)~~] A basic fee set by regulation, and bearing a reasonable relationship to the cost of processing the permit application but not to exceed three hundred seventy-five dollars ($375) plus a fee set by regulation but not to exceed seventy-five dollars ($75) for each acre or fraction thereof of the area of land to be affected by the operation, shall be paid before the permit required herein shall be issued; provided that if the cabinet approves an incremental bonding plan submitted by the applicant, the acreage fees may be paid in increments and at times corresponding to the approved plan. The operator shall file with the cabinet a bond payable to the Commonwealth of Kentucky with surety satisfactory to the cabinet in the penal sum to be determined by the cabinet for each acre or fraction thereof of the area of land affected, with a minimum bond of ten thousand dollars ($10,000), conditioned upon the faithful performance of the requirements set forth in this chapter and of the rules and regulations of the cabinet. In determining the amount of the bond the cabinet shall take into consideration the character and nature of the overburden, the future suitable use of the land involved and the cost of backfilling, grading and reclamation to be required and the probable difficulty of reclamation, giving consideration to such factors as topography, geology, hydrology, and revegetation potential. The bond amount shall initially be computed to be sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture. The cabinet shall promulgate regulations setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release, and forfeiture of such bonds. Where the circumstances are such as to warrant an exception, the cabinet, in its discretion, may reduce the amount of the bond for a two (2) acre operation to less than the required minimum.

(14)[~~(15)~~] Surface coal mining and reclamation operations which affect two (2) acres or less shall be exempt from the requirements of this chapter, except that the cabinet shall promulgate reasonable minimal regulations for permitting, bonding, controlling offsite water quality, revegetation, refuse piles, and use of explosives; and shall prohibit disposal of soil over the outslope in an uncontrolled manner. Such regulations shall recognize the distinct difference between two (2) acre operations and other surface coal mining operations and shall be less stringent than those imposed on other surface coal mining operations affecting more than two (2) acres, and in no event shall the cabinet require that the highwalls left by such operations be eliminated. In no event shall the bond be more than one thousand dollars ($1,000) per acre. The cabinet shall promulgate a short form application which will require the basic business information and a brief description of the method of operation. These applications shall be processed within thirty (30) calendar days. All procedural provisions and the penalty provisions of KRS 350.990 shall, however, apply to operations conducted and permits granted pursuant to this subsection. The cabinet shall enforce this subsection consistent with this chapter except that the cabinet shall not issue orders requiring cessation of operations for mere failure to abate a violation.

(15)[~~(16)~~] The cabinet shall promulgate rules and regulations for the permitting of operations with surface effects of underground mining and other surface coal mining and reclamation operations consistent with this section. The cabinet shall recognize the distinct differences between the surface effects of underground mining and strip mining, as also provided in KRS 350.151, in promulgating permitting requirements for these operations; provided, that the cabinet shall require, for underground mines that are greater than two (2) acres under subsection (15) of this section, that all of the areas overlying underground workings be permitted but that the areas overlying underground workings not affected by operations and facilities occurring on the surface shall not be subject to the payment of acreage fees or bond requirements of subsection (14) of this section or of KRS 350.151; provided, however, that applications for operations of two (2) acres or less filed under subsection (15) of this section shall clearly identify the boundaries of the proposed deep mine operation.

(16)[~~(17)~~] Any valid permit issued pursuant to this chapter shall carry with it the right of successive renewal upon expiration with respect to areas within the boundaries of the existing permit. The holders of the permit may apply for renewal and such renewal shall be issued (provided that on application for renewal the burden shall be on the opponents of renewal), subsequent to the fulfillment of the public notice requirements of this chapter unless it is established and written findings by the cabinet are made that:

(a) The terms and conditions of the existing permit are not being satisfactorily met;

(b) The present surface coal mining and reclamation operation is not in compliance with the environmental protection standards of this chapter;

(c) The renewal requested substantially jeopardizes the operator's continuing responsibility on existing permit areas;

(d) The operator has not provided evidence that the performance bond in effect for said operation will continue in full force and effect for any renewal requested in such application as well as any additional bond the cabinet might require; or

(e) Any additional revised or updated information required by the cabinet has not been provided;

Prior to the approval of any renewal of permit the cabinet shall provide notice to the appropriate public authorities.

(17)[~~(18)~~] If an application for renewal of a valid permit includes a proposal to extend the mining operation beyond the boundaries authorized in the existing permit, the portion of the application for renewal of a valid permit which addresses any new areas of surface disturbance shall be subject to the full standards applicable to new applications under this chapter.

(18)[~~(19)~~] Any permit renewal shall be for a term not to exceed the period of the original permit. Application for permit renewal shall be made at least one hundred and twenty (120) days prior to the expiration of the valid permit.

(19)[~~(20)~~] Notwithstanding any of the provisions of this section, a permit shall terminate if the permittee has not commenced the surface coal mining operations covered by such permit within three (3) years of the issuance of the permit. However, the cabinet may grant reasonable extensions of time upon a showing that such extensions are necessary by reason of litigation precluding commencement of operations, or threatening substantial economic loss to the permittee, or by reason of conditions beyond the control and without the fault or negligence of the permittee. With respect to coal to be mined for use in a synthetic fuel facility or specific major electric generating facility, the permittee shall be deemed to have commenced surface mining operations at such time as the construction of the synthetic fuel or generating facility is initiated.

(20)[~~(21)~~] Each application for a permit or revision for auger mining on a previously mined area must contain information to describe the area to be affected, to show that the proposed method of operation will result in stable post-mining conditions, and reduce or eliminate adverse environmental conditions created by previous mining activities. If the cabinet determines that the affected area cannot be stabilized and reclaimed subsequent to augering or that the operation will result in an adverse impact to the proposed or adjacent area, the permit or revision shall not be issued. The cabinet shall, consistent with all applicable requirements of this chapter, issue a permit or revision if the applicant demonstrates that the proposed coal mining operations will provide for reduction or elimination of the highwall, or reduction or abatement of adverse impacts resulting from past mining activities, or stabilization or enhancement of a previously mined area. The cabinet shall insure that all reasonably available spoil material will be used to backfill the highwall to the extent practical and feasible; provided, however, that in all cases the holes be properly sealed and backfilled to a minimum of four (4) feet above the coal seam being mined.

(21)[~~(22)~~] All operations involving the loading of coal which do not separate the coal from its impurities, and which are not located at or near the mine site, shall be exempt from the requirements of this chapter.

SECTION 3. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

All trucks hauling coal on a fully controlled limited access highway shall be covered by a tarp or equivalent cover to prevent spillage.

Section 4. KRS 177.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 177.230 to 177.310 shall be guilty of a misdemeanor

and upon arrest and conviction therefor, shall be punished by a fine of not less than five dollars ($5.00) nor more than one hundred dollars ($100) or by imprisonment in the city or county jail for not less than five (5) days nor more than ninety (90) days, or by both such fine and imprisonment.

(2) Any person who willfully violates any of the provisions of KRS 177.841 to 177.890 shall, in addition to any other penalty herein provided, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(3) In addition to any other penalty provided by KRS 177.910 to 177.950, any person violating any order or provision of KRS 177.910 to 177.950 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than one hundred dollars ($100) and not more than one thousand dollars ($1,000). Each day of violation of the provisions of KRS 177.910 to 177.950 shall constitute a separate offense.

(4) Any person who violates the weight provisions of KRS 177.9771 shall, upon conviction, be fined in an amount equal to three cents (3) per pound when the excess is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds but is less than four thousand (4,000) pounds, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds but is less than five thousand (5,000) pounds, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds. In no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(5) Any person who transports coal in violation of the weight provisions of KRS 189.221 and 189.222 and does not have a current decal or is not transporting coal under a valid cooperative agreement within KRS 177.9771(4)(f), shall, in addition to any applicable penalty prescribed by law, be fined five hundred dollars ($500) and be required to purchase the decal described in KRS 177.9771(4).

(6) Any person who violates the provisions of Section 3 of this Act shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

HB 875, AN ACT relating to the environment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.033 is amended to read as follows:

In addition to any other powers and duties vested in it by law, the cabinet shall have the authority, power, and duty to:

(1) Exercise general supervision of the administration and enforcement of this chapter, and all rules, regulations and orders promulgated thereunder;

(2) Prepare and develop a comprehensive plan or plans related to the environment of the Commonwealth;

(3) Encourage industrial, commercial, residential and community development which provides the best usage of land areas, maximizes environmental benefits and minimizes the effects of less desirable environmental conditions;

(4) Develop and conduct a comprehensive program for the management of water, land, and air resources to assure their protection and balance utilization consistent with the environmental policy of the Commonwealth;

(5) Provide for the prevention, abatement, and control of all water, land, and air pollution including but not limited to that related to particulates, pesticides, gases, dust, vapors, noise, radiation, odor, nutrients, heated liquid, or other contaminants;

(6) Provide for the control and regulation of surface coal mining and reclamation in a manner to accomplish the purposes of KRS Chapter 350;

(7) Secure necessary scientific, technical, administrative, and operational services, including laboratory facilities, by contract or otherwise;

(8) Collect and disseminate information and conduct educational and training programs relating to the protection of the environment;

(9) Appear and participate in proceedings before any federal regulatory agency involving or affecting the purposes of the cabinet;

(10) Enter and inspect any property or premises for the purpose of investigating either actual or suspected sources of pollution or contamination or for the purpose of ascertaining compliance or noncompliance with this chapter, or any rule or regulation which may be promulgated thereunder;

(11) Conduct investigations and hold hearings and compel the attendance of witnesses and the production of accounts, books and records by the issuance of subpoenas;

(12) Accept, receive, and administer grants or other funds or gifts from public and private agencies including the federal government for the purpose of carrying out any of the functions of the cabinet. Such funds received by the cabinet shall be deposited in the state treasury to the account of the cabinet;

(13) Request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the cabinet in the performance of its duties;

(14) Advise, consult, and cooperate with other agencies of the Commonwealth, other states, the federal government, and interstate and interlocal agencies, and affected persons, groups and industries;

(15) Formulate guides for measuring presently unidentified environmental values and relationships so they can be given appropriate consideration along with social, economic, and technical considerations in decision making;

(16) Monitor the environment to afford more effective and efficient control practices, to identify changes and conditions in ecological systems and to warn of emergency conditions;

(17) Adopt, modify or repeal *after referral to* [~~with the recommendation of~~] the commission any standard, rule, regulation or plan specified in subsections (5) and (6) of KRS 224.045;

(18) Issue, after hearing, orders abating activities in violation of this chapter, or the provisions of this chapter, or the regulations promulgated pursuant thereto and requiring the adoption of such remedial measures as the cabinet may deem necessary;

(19) Issue, continue in effect, revoke, modify, suspend or deny under such conditions as the cabinet may prescribe and require that applications be accompanied by plans, specifications, and such other information as the cabinet deems necessary for the following permits:

(a) Permits to discharge into any waters of the Commonwealth, and for the installation, alteration, expansion, or operation of any sewage system; however, the cabinet may refuse to issue such permits to any person, or any partnership, corporation, etc. of which such person owns more than ten percent (10%) interest, who has improperly constructed, operated or maintained a sewage system willfully, through negligence, or because of lack of proper knowledge or qualifications until such time as that person demonstrates proper qualifications to the cabinet and provides the cabinet with a performance bond;

(b) Permits for the installation, alteration, or use of any machine, equipment, device or other article that may cause or contribute to air pollution or is intended primarily to prevent or control the emission of air pollution; or

(c) Permits for the establishment or construction and the operation or maintenance of waste disposal sites and facilities.

(20) May establish, by regulation, a fee or schedule of fees for the cost of processing applications for permits authorized by this chapter, and for the cost of processing applications for exemptions or partial exemptions which may include but not be limited to the administrative costs of a hearing held as a result

of such exemption application, except that applicants for existing or proposed publicly owned facilities shall be exempt from any such charge;

(21) May require for persons discharging into the waters or onto the land of the Commonwealth, by regulation, order or permit, technological levels of treatment and effluent limitations;

(22) Require, by regulation, that any person engaged in any operation regulated pursuant to this chapter install, maintain, and use at such locations and intervals as the cabinet may prescribe any equipment, device or test and the methodologies and procedures for the use of such equipment, device or test to monitor the nature and amount of any substance emitted or discharged into the ambient air or waters or land of the Commonwealth and to provide any information concerning such monitoring to the cabinet in accordance with the provisions of subsection (23) of this section;

(23) Require by regulation that any person engaged in any operation regulated pursuant to this chapter file with the cabinet reports containing information as to location, size, height, rate of emission or discharge, and composition of any substance discharged or emitted into the ambient air or into the waters or onto the land of the Commonwealth, and such other information as the cabinet may require;

(24) Promulgate rules, regulations, guidelines, and standards for waste planning and management activities, approve waste management facilities, develop and publish a comprehensive statewide plan for nonhazardous waste management which shall contain, but not be limited to, the provisions set forth in KRS 224.888, and develop and publish a comprehensive statewide plan for hazardous waste management which shall contain, but not be limited to, the following:

(a) A description of current hazardous waste management practices and costs, including treatment and disposal, within the Commonwealth;

(b) An inventory and description of all existing facilities where hazardous waste is being generated, treated, recycled, stored, or disposed of, including an inventory of the deficiencies of present facilities in meeting current hazardous waste management needs and a statement of the ability of present hazardous waste management facilities to comply with state and federal laws relating to hazardous waste;

(c) A description of the sources of hazardous waste affecting the Commonwealth including the types and quantities of hazardous waste currently being generated and a projection of such activities as can be expected to continue for not less than twenty (20) years into the future; and

(d) An identification and continuing evaluation of those locations within the Commonwealth which are naturally or may be engineered to be suitable for the establishment of hazardous waste management facilities, and an identification of those general characteristics, values, and attributes which would render a particular location unsuitable, consistent with the policy of minimizing land disposal and encouraging the treatment and recycling of such wastes;

The statewide waste management plans shall be developed consistent with state and federal laws relating to waste;

(25) Perform such other and further acts as may be necessary to carry out the duties and responsibilities herein described;

(26) Preserve existing clean air resources while ensuring economic growth by issuing regulations, which shall be no more stringent than federal requirements, setting maximum allowable increases from stationary sources over baseline concentrations of air contaminants to prevent significant deterioration in areas meeting the state and national ambient air quality standards; and

(27) Promulgate rules and regulations concerning the bonding provisions of subsection (19)(a) of this section, setting forth bonding requirements including, but not limited to, requirements for the amount, duration, release and forfeiture of such bonds. All funds from the forfeiture of bonds required pursuant to this section shall be placed in the state treasury and credited to a special trust and agency account which shall not lapse. Such account shall be known as the "sewage treatment system rehabilitation fund" and all moneys placed in the fund shall be used for the elimination of nuisances and hazards created by sewage systems which were improperly built, operated, or maintained, and insofar as practicable be used to correct the problems

at the same site for which the bond or other sureties were originally provided; and

(28) Promulgate administrative regulations not inconsistent with the provisions of law administered by the cabinet.

Section 2. KRS 224.041 is amended to read as follows:

(1) There is hereby created the environmental quality commission which shall consist of *ten (10)* [~~seven (7)~~] members appointed by the governor.

(2) All members of the commission shall be citizens eligible to vote in elections in this Commonwealth. At all times a majority of the commission shall meet the requirements of KRS 224.043, and "person" as used in KRS 224.043, shall relate to a majority of the members of the commission.

(3) [~~Of the seven (7) members of the commission first to be appointed, one (1) shall be appointed for a term of one (1) year; two (2) for a term of two (2) years; two (2) for a term of three (3) years; and two (2) for a term of four (4) years, beginning on January 1, 1973. Thereafter,~~] All appointments shall be made for terms of four (4) years beginning on the first day of January of the year in which the appointment is made. Each of the appointed members of the commission shall hold office for the term for which he was appointed and until his successor shall have been appointed and taken office in his stead or until he shall resign or be removed in a manner provided by law.

(4) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(5) Members of the commission shall receive twenty-five dollars ($25) per day for each meeting attended and may be reimbursed for actual and necessary expenses incurred in the performance of official duties.

(6) The commission shall select one (1) of its members as chairman, another as vice chairman, and another as secretary at its first regular meeting in the calendar year.

(7) Staff services for the commission shall be performed, insofar as practicable, by personnel of the cabinet.

(8) The commission may request and receive the assistance of any state or municipal educational institution, experiment station, laboratory, or other agency when it is deemed necessary or beneficial by the commission in the performance of its duties.

(9) The commission shall *meet* [~~hold regular meetings at least~~] once [~~in~~] every three (3) months, the time and place of which shall be determined by the commission. Special meetings may be called by the chairman or by *four (4)* [~~three (3)~~] members of the commission by delivery to each member of the commission of a written notice thereof at least five (5) days in advance of the date of any such meeting. *Six (6)* [~~Four (4)~~] members of the commission shall constitute a quorum at any meeting. The commission shall establish bylaws for the conduct of its meeting and shall keep an accurate record of all its proceedings.

Section 3. KRS 224.043 is amended to read as follows:

(1) The ten (10) members of the environmental quality commission shall be selected by the governor and shall consist of one (1) representative from the legal profession, one (1) representative from the engineering profession, one (1) representative from the counties, one (1) representative from the water companies, two (2) representatives from the environmental community, one (1) representative from the manufacturing industry, one (1) representative from the coal industry, and one (1) representative from the farming industry [~~No person shall be eligible to serve as a member of the environmental quality commission who holds a permit for any purpose issued by the cabinet or who is an officer, employe or agent, or who is a stockholder owning 7.5 percent or more of the voting stock of any corporation or organization holding a permit issued by the cabinet for any purpose, or who is an officer, employe, or agent of any trade association which represents any person, corporation or organization holding a permit issued by the cabinet for any purpose~~].

(2) The governor shall immediately appoint three (3) of the members as set out in subsection (1) of this

section. As the present members complete their terms or as they otherwise vacate their terms, the governor shall appoint the remaining members as set out in subsection (1) of this section. The selection and order of all appointments shall be within the discretion of the governor.

Section 4. KRS 224.045 is amended to read as follows:

The environmental quality commission shall have the power, duty and authority to:

(1) Establish such advisory committees as may be necessary and convenient.

(2) Advise the secretary on any matter within his responsibility which it deems necessary.

(3) Advise the governor on any matter covered by the provisions of this chapter.

(4) Serve as a working public forum for the exchange of views, concerns, ideas, *and* information[~~, and recommendations~~] relating to the quality of the natural environment *with regard to the following*[~~.~~

~~(5) Recommend adoption or rejection by a majority of its membership present and voting of any proposal by the cabinet to adopt, modify or revoke~~]:

(a) Any positions proposed to be taken by the cabinet on behalf of the state before interstate and federal agencies or federal legislative bodies on matters relating to or affecting the quality of the environment of the state;

(b) Any rule or regulation pertaining to the procedural aspects of hearings, appeals, the filing of reports, the issuance of orders, the issuance of permits, and the application for and the granting of exemptions; [~~or~~]

(c) Any procedures for the financial assistance grants proposed to be given to municipal, regional, county, or state organizations for environmental purposes;[~~.~~

~~(6) Recommend adoption or rejection after public hearing by a majority of its membership present and voting of any proposal by the cabinet to adopt, modify, or revoke:~~]

(d)[~~(a)~~] Any comprehensive environment quality plan, program or policy proposed for adoption as a state plan or policy pertaining to an environmental management activity; or

(e)[~~(b)~~] Any rule or regulation pertaining to the prevention, abatement, and control of existing or threatened air or water pollution, disposal of waste, control of noise, or the use of air, land, or water resources, or strip mining and reclamation.

(5) At the conclusion of its consideration of any matter referred to it, the commission shall transmit a summary of all views expressed to it to the cabinet for consideration.

[~~(7) Establish an advisory committee on noise control, which shall consist of a sound engineer, an audiologist, and one representative from each of the following: transportation industry, manufacturing industry, labor, citizenry, and the general assembly. Such members shall be appointed with the approval of the secretary, who shall be an ex officio member.~~]

Section 5. KRS 224.055, Recommendation of adoption or rejection of proposals — Adoption upon recommendation of rejection, statement of reason, is repealed.

HB 929, AN ACT relating to coal mining regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.020 is amended to read as follows:

The general assembly finds that the Commonwealth is the leading producer of coal and that the production of coal in Kentucky contributes significantly to the nation's energy needs. The general assembly further finds that unregulated surface coal mining operations cause soil erosion, damage from rolling stones and overburden, landslides, stream pollution, the accumulation of stagnant water and the seepage of contaminated water, increase the likelihood of floods, destroy the value of land for agricultural purposes, destroy aesthetic values, counteract efforts for the conservation of soil, water and other natural resources, destroy or impair the property rights of citizens, create fire hazards, and in general create hazards dangerous to life and property, so as to constitute an imminent and inordinate peril to the welfare of the Commonwealth. The general assembly further finds that lands that have been subjected to surface coal mining operations and have not been reclaimed and rehabilitated in accordance with modern standards constitute the aforementioned perils to the welfare of the Commonwealth. The general assembly further finds that there are wide variations in the circumstances and conditions surrounding and arising out of surface coal mining operations due primarily to difference in topographical and geological conditions, and by reason thereof it is necessary, in order to provide the most effective, beneficial and equitable solution to the problem, that a broad discretion be vested in the authority designated to administer and enforce the regulatory provisions enacted by the general assembly. The general assembly further finds that [~~primary~~] governmental responsibility for regulating surface coal mining operations rests with state government and hereby directs the natural resources and environmental protection cabinet to take all actions necessary to preserve and exercise the Commonwealth's [~~primary~~] authority, *to the exclusion of all other governmental entities except the Commonwealth and agencies thereof,* in regulating surface coal mining operations. Therefore, it is the purpose of this chapter to provide such regulation and control of surface coal mining operations as to minimize or prevent injurious effects on the people and resources of the Commonwealth. To that end, the department is directed to rigidly enforce this chapter and to adopt whatever regulations are found necessary to accomplish the purpose of this chapter.

The Committee Amendment No. 1 to **HB 929** is as follows:

Amend printed copy of **HB 929** on page 2, line 17, after "*thereof*" by adding: "*and with the exception of provisions of KRS Chapter 100,*"

HB 930, AN ACT relating to hazardous waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(5), except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) to (4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant; and

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility [~~and until termination~~]. *Upon receipt by the cabinet of a certified statement from the owner or operator and an independent registered professional engineer that final closure has been completed in accordance with the approved plan, the cabinet shall, within sixty (60) days, notify the owner or operator that he no longer needs to maintain liability coverage to satisfy claims arising out of injury to persons or property unless the cabinet believes closure has not been in accordance with the approved closure plan.* The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars ($3,000,000) per occurrence with an annual aggregate of six million dollars ($6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

The Committee Substitute to **HB 930** is as follows:

HB 930, AN ACT relating to hazardous waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.866 is amended to read as follows:

(1) No person shall engage in the storage, treatment, recycling or disposal of hazardous waste without first notifying the cabinet and obtaining construction and operation permits from the cabinet. The cabinet shall promulgate regulations establishing standards for such permits but in no case shall a permit to construct or operate a hazardous waste site or facility or a regional integrated waste treatment and disposal demonstration facility be issued unless it can be demonstrated that the proposed facility can be integrated into the surroundings in an environmentally compatible manner, including but not limited to insuring that hydrologic, seismologic, geologic and soil considerations have been adequately addressed in the permit application and in an operational plan. In no case shall a permit to construct a hazardous waste landfill or other site or facility for the land disposal of hazardous waste be approved or issued prior to notification of the cabinet by the local unit of government of its actions pursuant to KRS 224.855(5), except when the landfill is part of a regional integrated waste treatment and disposal demonstration facility. The cabinet shall not issue a construction permit to a regional integrated waste treatment and disposal demonstration facility until it has been issued a certificate of environmental safety and public necessity. A person desiring a construction permit shall file an application on forms supplied by the cabinet which shall contain such information as the cabinet deems necessary and provide evidence that the hazardous waste shall be treated, stored or disposed of in the manner prescribed by the cabinet. The applicant shall not initiate construction at the proposed site of a new facility for the storage, treatment or disposal of hazardous waste until notice has been given to that portion of the public most likely to be affected by the operation of the proposed facility pursuant to KRS 224.855(1) to (4) and until a construction permit for said facility has been issued by the cabinet. The cabinet may consider past performance in this or related fields by the applicant. The cabinet, in making a determination to issue, deny or condition a construction permit, shall consider the following:

(a) An evaluation of alternatives, to include other locations and other treatment, storage, and disposal approaches, different from those proposed, available to the applicant;

(b) An evaluation of the public health, safety, and environmental aspects of the proposals;

(c) An evaluation of the social and economic impacts of the proposed action on the affected community, to include, at a minimum, changes in property values, community perception and other psychic costs, and the costs and availability of public services, facilities and improvements required to support the facility and protect public health, safety and the environment;

(d) An evaluation of mitigation measures to alleviate problems identified in paragraphs (b) and (c) of this subsection; and

(e) The relationship of the proposal to local planning and existing development.

Except that in the case of hazardous waste landfills or other sites or facilities for the land disposal of hazardous waste the provisions of paragraphs (c) and (e) of this subsection shall be determined by the local unit of government pursuant to KRS 224.855(5); in the case of a regional integrated waste treatment and disposal demonstration facility the provisions of paragraphs (c) and (e) of this subsection shall be determined by the siting board established pursuant to KRS 224.2203.

(2) The cabinet may prohibit the land disposal of any hazardous wastes. The criteria and list of hazardous waste to be prohibited by the cabinet from land disposal shall be identical to any such criteria and list promulgated by the United States Environmental Protection Agency pursuant to the Resource Conservation and Recovery Act of 1976, as amended, (Public Law 94-580). The land disposal of hazardous waste may be permitted for methods determined by the cabinet to be protective of human health and the environment for as long as the waste remains hazardous.

(3) In conjunction with the application for permits under this section the applicant shall establish adequate financial responsibility as follows:

(a) The applicant shall file as part of his application for a permit to construct the facility an estimate of the cost of closing the facility after its capacity is reached or operations have otherwise ceased and an estimate of the cost of post-closure care. In the case of storage facilities, the cost of closing shall include the cost of properly disposing of the hazardous waste stored. The cabinet shall evaluate this cost estimate and either accept the estimate as made or shall revise it in accordance with acceptable guidelines, using, where available, actual data on closure costs associated with similar existing facilities. Before a permit to operate can be issued the applicant for any hazardous waste permit shall assure that the funds needed to close the facility are available by establishing assurance through one (1) or more of the following mechanisms: cash, certificates of deposit, irrevocable credit or other sureties satisfactory to the cabinet and the mechanism shall be established by agreement with the cabinet. The agreement shall provide that disbursement is permissible only upon written approval of the cabinet and whenever, on the basis of any information, the cabinet determines that the owner or operator is in violation of any of the closure requirements for the facility, that the cabinet shall have the right to use part or all of the closure fund to carry out the closure requirements. The financial institution, surety company or escrow agent shall release these funds upon receiving a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more closure violations. Upon determination that closure has been satisfactorily accomplished, the cabinet shall release the applicant from further financial responsibility for closure;

(b) Any applicant for a hazardous waste disposal permit shall file with the cabinet as part of his application an estimate of the annual cost of post-closure monitoring and routine maintenance at the site. The cabinet shall evaluate the cost estimate, and, after such modification as may be necessary in light of its evaluation, shall give notice of acceptance of the cost estimate. This cost estimate which will be referred to as the annual post-closure operating cost will then be used to determine the amount of the post-closure monitoring and maintenance fund to be used for monitoring and maintenance for a period of a minimum of thirty (30) years after facility closure. The post-closure monitoring and maintenance fund shall be cash, irrevocable credit or other sureties satisfactory to the cabinet and shall be established by an agreement with the cabinet. The agreement shall provide that whenever, on the basis of any information, the cabinet determines that the owner or operator of the facility is in violation of any of the post-closure monitoring and maintenance requirements, the cabinet shall have the right to use part or all of the funds to carry out the post-closure monitoring and maintenance for the facility. The funds shall be released upon receipt of a forfeiture order of the cabinet issued pursuant to an appropriate administrative hearing considering one (1) or more post-closure monitoring and maintenance violations. One (1) year after closure and annually, thereafter, for a period of thirty (30) years, the applicant who has carried out all necessary post-closure maintenance and monitoring requirements may upon application to the cabinet be reimbursed out of the post-closure monitoring and maintenance fund an amount equal to the estimated costs for monitoring and routine maintenance for that year. Request for release of funds for reimbursement must be accompanied by an itemized list of costs incurred. Upon determination that the expenditures incurred are in accordance with the approved plan or otherwise justified the cabinet may authorize the release of the funds to the applicant in writing. Any funds remaining in the account following a termination hearing in which the applicant is released of further responsibility will likewise be released to the applicant; and

(c) All applicants for any hazardous waste permit must provide evidence of financial responsibility in an amount and for a time period specified by the cabinet for the purpose of corrective action on and off-site and satisfying claims arising out of injury to persons or property resulting from the release or escape of hazardous waste into the environment. Such financial responsibility may be established by one (1) or a combination of evidence of liability insurance, self-insurance, or other evidence of financial responsibility acceptable to the cabinet. The level of self-insurance shall not exceed ten percent (10%) of equity, and financial responsibility must be maintained during the entire operation of the facility [~~and until termination~~]. *The requirement of this subsection to maintain continuous liability coverage for sudden and nonsudden occurrences for a unit or facility shall cease one (1) year after receipt of notification that the cabinet has determined the requirements of the approved closure plan have been met for that unit or facility. In addition, the cabinet shall require a demonstration of financial responsibility for sudden and nonsudden occurrences in an amount commensurate with the risk (and not to exceed the limits set forth in this subsection) to satisfy claims arising out of injury to persons or property resulting from the release or escape of hazardous waste to the environment for a period commensurate with the commencement of any corrective measures taken under a corrective action plan and for one (1) year after completion of such measures.* The minimum liability coverage for sudden occurrences, exclusive of legal defense costs, for a storage, treatment or disposal facility shall be one million dollars ($1,000,000) per occurrence with an annual aggregate of two million dollars ($2,000,000). The minimum liability coverage for nonsudden occurrences, exclusive of legal defense costs, for a hazardous waste facility involving land disposal shall be three million dollars ($3,000,000) per occurrence with an annual aggregate of six million dollars ($6,000,000). Combined coverage for sudden and nonsudden occurrences shall be no less than the combined totals herein set forth for separate coverage.

(4) The cabinet shall promulgate regulations establishing minimal standards for closure, post-closure monitoring and maintenance, and termination of sites for the disposal of hazardous waste. Any person who

obtains a disposal permit for hazardous waste shall be responsible for the post-closure monitoring and maintenance of the permitted facility for a minimum of thirty (30) years after closure of the facility, and may apply to the cabinet for termination of the responsibility for post-closure monitoring and maintenance at any time after the site has been closed for at least thirty (30) years. Upon receipt of such application the cabinet shall provide notice to the public and to the owner or operator and an opportunity for a hearing on the termination of the site. In this proceeding the burden shall be on the applicant to prove by clear and convincing evidence that additional post-closure monitoring and maintenance is not necessary for adequate protection of public health or the environment. The cabinet shall determine either that post-closure monitoring and maintenance of the site is no longer required in which case the applicant shall be relieved of such responsibility; or that additional post-closure monitoring and maintenance of the site as specified in a plan of operation is still required, in which case the cabinet may order appropriate remedial measures, impose restrictive covenants as to future use of the property involved, or otherwise condition termination as may be necessary for adequate protection of public health and the environment.

(5) In any case where the owner or operator is in bankruptcy, reorganization, or arrangement pursuant to the federal Bankruptcy Code or where jurisdiction cannot be obtained with reasonable diligence in any state court or any federal court over an owner or operator likely to be insolvent at the time of judgment, any claim arising from conduct for which evidence of financial responsibility must be provided under this section may be asserted directly against the guarantor providing such evidence of financial responsibility. In the case of any action pursuant to this subsection, such guarantor shall be entitled to invoke all rights and defenses which would have been available to the owner or operator if any action had been brought against the owner or operator by the claimant and which would have been available to the guarantor if an action had been brought against the guarantor by the owner or operator.

(6) The total liability of any guarantor shall be limited to the aggregate amount which the guarantor has provided as evidence of financial responsibility to the owner or operator under this section. Nothing in this subsection shall be construed to limit any other federal statutory, contractual or common law liability of a guarantor to its owner or operator including, but not limited to, the liability of such guarantor for bad faith either in negotiating or in failing to negotiate the settlement of any claim. Nothing in this subsection shall be construed to diminish the liability of any person under section 107 or 111 of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 or other applicable law.

(7) For the purpose of this subsection, the term guarantor means any person, other than the owner or operator, who provides evidence of financial responsibility for an owner or operator under this section.

The Committee on State Government reported **HB 594** with Committee Amendment attached thereto, and **HB 810** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 594, AN ACT relating to parole.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.320 is amended to read as follows:

(1) The governor shall appoint a parole board consisting of seven (7) members, one (1) of whom he shall name as chairman of the board. He shall make each appointment from a list of three (3) names given to him by the commission on correction and community service. Each member appointed to the board must have had at least five (5) years of actual experience in the field of penology, correction work, law enforcement, sociology, law, education, social work, medicine or a combination thereof, or have served at least five (5) years previously on the parole board. No more than four (4) board members may be of the same political party. The board shall be attached to the corrections cabinet for administrative purposes only; the corrections cabinet shall provide such clerical, stenographic, administrative and expert staff assistance as the board deems necessary to carry out its duties.

(2) The chairman shall be the chief administrative officer of the board and shall be responsible for all administrative, organizational and personnel matters of the board.

(3) The members of the board shall give full time to the duties of their office and shall receive necessary traveling expenses and a salary to be determined pursuant to KRS 64.640(2), except the chairman of the board shall receive additional compensation of one thousand dollars ($1,000) per year for his services. Their

term of office shall be four (4) years and until their successors are appointed and have qualified. Their successors shall be appointed thereafter as provided in this section for terms of four (4) years, and a vacancy occurring before expiration of the term of office shall be similarly filled for the unexpired term. The chairman of the board shall serve as such until the expiration of his term at which time the governor shall name his successor and designate the chairman of the board. If a vacancy occurs in the chairmanship of the board before the expiration of the term the governor may name a successor to serve for the remainder of the unexpired term.

(4) *The organization of the board shall be determined by the chairman and a quorum of the board shall be as follows:*

(a) For parole hearings, three (3) members; and

(b) For all other business, four (4) members. [~~Four (4) members of the board shall constitute a quorum. The organization of the board shall be determined by the chairman.~~]

(5) The governor may not remove any member of the board except for disability, inefficiency, neglect of duty, or malfeasance in office. Before such removal he shall give the member a written copy of the charges against him and shall fix the time when he can be heard in his defense, which shall not be less than ten (10) days thereafter. Upon removal the governor shall file in the office of the secretary of state a complete statement of all charges made against the member and the findings thereupon with a record of the proceedings.

(6) Present members of the board shall be deemed to have vacated their appointment and successors shall be appointed as provided in subsection (3) of this section. The governor may reappoint present members if they meet the qualifications set forth in subsection (1) of this section.

The Committee Amendment No. 1 to **HB 594** is as follows:

Amend printed copy of **HB 594** on page 2, line 23, by inserting the following after "*members*":

"*A decision by any three (3)-member panel in a parole hearing shall be final unless any member of the full board requests that the full board hear the case, whereupon a parole hearing by not less than four (4) members of the board shall be held.*"

HB 810, AN ACT relating to the state investment commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.500 is amended to read as follows:

(1) There shall be a state investment commission composed of the governor who shall be chairman, the state treasurer who shall be vice-chairman and serve as chairman in the absence of the governor, the secretary of the finance and administration cabinet, and two (2) persons appointed by the governor.

(2) [~~The individuals appointed by the governor shall be selected as follows: one (1) to be selected from a list of five (5) submitted to the governor by the Kentucky Bankers Association, and one (1) to be selected from a list of five (5) submitted to the governor by the Independent Community Bankers Association.~~

~~(3)~~] The state investment commission shall meet at least quarterly to review investment performance and conduct other business. This provision shall not prohibit the commission from meeting more frequently as the need arises.

(3)[~~(4)~~] Three (3) members of the commission shall constitute a quorum. Any three (3) members of the commission may call a meeting.

(4)[~~(5)~~] The provisions of KRS 61.070 shall not apply to members of the commission.

[~~(6) The commission shall have authority to and may invest any and all surplus funds of the state in direct obligations of the United States government, or of the Commonwealth of Kentucky. All such investments~~

~~shall be obligations that will mature within five (5) years from the date of investment.~~

~~(7) The commission shall also have authority and may, whenever in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of said excess cash in United States treasury bills or certificates of indebtedness or any other United States government security which will mature within one (1) year from the date of investment.~~]

(5)[~~(8)~~] The commission shall [~~also~~] have authority and may, *if* [~~whenever~~] in its opinion the cash in the state treasury is in excess of the amount required to meet current expenditures, invest any and all of *the* [~~said~~] excess cash in:

(a) Obligations *and contracts for future delivery of obligations* backed by the full faith and credit of the United States or a U.S. government agency, including but not limited to:

1. U.S. treasury;

2. Export-import bank of the United States;

3. Farmers home administration;

4. Governmental national mortgage corporation; and

5. Merchant marine bonds;

(b) Obligations of any corporation of the U.S. government, including but not limited to:

1. Federal home loan mortgage corporation;

2. Federal farm credit banks;

a. Bank for cooperatives;

b. Federal intermediate credit banks;

c. Federal land banks;

3. Federal home loan banks;

4. Federal national mortgage association; [~~and~~]

5. Tennessee Valley Authority obligations; and

(c) Collateralized *or uncollateralized* certificates of deposit, *issued by banks rated in one of the three (3) highest categories by a nationally recognized rating agency* or other interest-bearing accounts in depository institutions chartered by this state or by the United States, except for shares in mutual savings banks*;*

(d) Bankers' acceptances for banks rated in one of the three (3) highest categories by a nationally recognized rating agency;

(e) Commercial paper rated in the highest category by a nationally recognized rating agency;

(f) Securities issued by a state or local government, or any instrumentality or agency thereof, in the United States, and rated in one of the three (3) highest categories by a nationally recognized rating agency.

(6)[~~(9)~~] Interest earned from investments made pursuant to this section shall accrue to the credit of the surplus account of the general fund, except that interest from investments of excess cash in the road fund

shall be credited to the surplus account of the road fund and interest from investments of excess cash in the game and fish fund shall be credited to the game and fish fund, interest earned from investments of imprest cash funds and funds in the trust and revolving fund for each state public university shall be credited to the appropriate institutional account, and interest earned from the investment of funds accumulated solely by means of contributions and gifts shall not be diverted to any purpose other than that stipulated by the donor, when such donor shall have designated the use to which such interest shall be placed, and interest earned from the investment of moneys appropriated to the capital construction fund and its accounts shall accrue to the capital construction surplus account of the capital construction fund.

(7)[~~(10)~~] The authority granted by this section to the state investment commission shall not extend to any funds that are specifically provided by law to be invested by some other officer or agency of the state government.

(8)[~~(11)~~] The authority granted by this section to the state investment commission shall only be exercised pursuant to the regulations mandated by KRS 42.525.

(9)[~~(12)~~] *The secretary of the finance and administration cabinet shall procure a bond for* each *appointed* member of the state investment commission [~~shall post bond~~] for his acts or omissions as a member thereof identical in amount and kind to that posted by the state treasurer.

The Committee Amendment No. 1 to **HB 810** is as follows:

Amend printed copy of **HB 810** on page 1, lines 8 through 12, remove the bracket and strikethroughs; and

On page 1, line 13, insert the following: "*Consumer Finance Association.*"; and

On page 1, line 13, place a bracket before the word "Independent" and place a bracket after the word "Association."; and

On page 1, line 14, remove the strikethroughs and bracket from the number "(3)"; and

On page 1, line 19, delete the number "*(3)*" and remove the brackets and strikethroughs from the number "(4)"; and

On page 2, line 1, delete the number "*(4)*" and remove the brackets and strikethroughs from the number "(5)"; and

On page 2, line 17, delete the number "*(5)*" and insert in lieu thereof the number "*(6)*"; and

On page 4, line 5, delete the number "*(6)*" and insert in lieu thereof the number "*(7)*"; and

On page 4, line 24, delete the number "*(7)*" and insert in lieu thereof the number "*(8)*"; and

On page 5, line 2, delete the number "*(8)*" and insert in lieu thereof the number "*(9)*"; and

On page 5, line 5, delete the numer "*(9)*" and insert in lieu thereof the number "*(10)*".

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for a Report of the Committee on Rules. Agreed.

Report of Committees

The Committee on Rules reported **HB 586**, **HB 517**, **HB 536**, **HB 551**, **HB 1**, **HB 552**, **HB 591**, **HB 720**, **HB 765**, **HB 856**, **HB 870**, **HB 906**, **HB 937**, **HCR 62** and **SB 201** have been posted for passage in Orders of the Day, March 11, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 11, 1988: **HB 455**, **HB 597**, **HB 760**, **HB 762**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **SB 49**, **HB 235**, **HJR 51**.

Representative Long moved that a Free Conference Committee be appointed on **HB 25**. Agreed.

The Speaker announced the appointment of the same members who served on the Conference Committee on **HB 25**.

Representative Clarke moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Clarke moved the adoption of the following **HR 156**:

HR 156, A RESOLUTION adjourning the House of Representatives in honor and in memory of Wesley Gilmer, Jr., State Law Librarian.

With heartfelt sorrow we pay homage and tribute to the memory of our departed friend and respected colleague:

WHEREAS, Wesley Gilmer, Jr., has crossed that final bourne from which no traveler returns; and

WHEREAS, Wesley Gilmer practiced law in Danville, where he also served as city attorney; was assistant law librarian and faculty member at the University of Cincinnati College of Law, and since 1976 served as State Law Librarian; and

WHEREAS, Mr. Gilmer was responsible for raising over $30,000 from the sale of books that were outdated or were no longer needed, thus enabling him to update the collection of the State Law Library by acquiring statutes from all fifty states as well as other major publications; and

WHEREAS, Mr. Gilmer was a teacher, scholar, author, practicing attorney and librarian; and

WHEREAS, Mr. Gilmer personified the word "integrity"; and

WHEREAS, Wesley Gilmer, Jr., had a delightful sense of humor excelling in making a "play on words", had a keen intellect and warm personality; and

WHEREAS, Mr. Gilmer loved the Commonwealth of Kentucky, and in particular the City of Danville which he believed was the best place in which to live; and

WHEREAS, Mr. Gilmer familiarized the staff of the Legislative Research Commission with the library facilities and for many years had been an integral part of the LRC program to train new staff members; and

WHEREAS, Mr. Gilmer was never too busy to lend a helping hand to anyone needing assistance with research; and

WHEREAS, Wesley Gilmer, Jr., will be gravely missed by his family to which he was deeply devoted and by his many friends; and

WHEREAS, Wesley Gilmer was deeply respected and admired by his colleagues in Frankfort and his passing has created a void in the hallowed halls of the Capitol which can never be filled;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of this august body do hereby express their profound sense of bereavement and loss upon the death of Wesley Gilmer, Jr., and commend his family to the solace of the Almighty during these dark and painful hours.

Section 2. That the House of Representatives hereby declares that when it adjourns this 10th day of March, 1988, it does so in honor and in memory of Wesley Gilmer, Jr., a true gentleman and scholar whose immeasurable contributions to the State Law Library and the Commonwealth of Kentucky will be enjoyed by countless persons for many years to come.

Section 3. That the Clerk of the House is directed to transmit copies of this resolution to Wesley Gilmer's wife, Mary Minor Gilmer; his mother, Esther Gilmer; his children, John Wesley Gilmer, III, and his daughters Louise Magee and Elizabeth Gilmer, c/o Mary Minor Gilmer, 404 Meadow Lane, Danville, Kentucky 40422.

HR 156 was adopted by voice vote.

Representative Clarke moved that a call of the roll be taken to show co-sponsors of **HR 156**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 156**: Adams, Adkins, Allen, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Freibert, Gray, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lefevers, LeMaster, Little, Long, Lyne, Mack, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Northup, O'Brien, Overstreet, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Scorsone, Seum, Siler, B. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Hoover moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Hoover moved the adoption of the following **HR 153**:

HR 153, A RESOLUTION honoring Patricia Ritter, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Patricia Ritter as an exhibitor in "Kentucky Places" and wishes her continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Patricia Ritter for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Ms. Patricia Ritter, 1125 Little Renox Road, Burkesville, Kentucky, 42717.

HR 153 was adopted by voice vote.

Representative Casebier moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Casebier moved the adoption of Legislative Citations No. 82 and 83. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby joins Representatives Lindy Casebier in honoring and recognizing Carolyn Davis.

WHEREAS, Carolyn Davis has served as Executive Director of the Republican Party of Jefferson County in a most remarkable manner; and

WHEREAS, The Jefferson County Republican Party has had much success and shows much promise under Carolyn's guidance; and

WHEREAS, Carolyn Davis has worked countless hours on behalf of causes and candidates for the ultimate benefit of Jefferson County, Kentucky and our Nation.

NOW, THEREFORE, BE IT RESOLVED that the Kentucky House of Representatives does hereby honor and congratulates Carolyn Davis for her exemplary service to the Republican Party of Jefferson County. (Sponsored by Representative Casebier)

The House of Representatives joins Representative Lindy Casebier in honoring and recognizing Norma Weidmar.

WHEREAS, Norma Weidmar has served as Executive Secretary of the Jefferson County Republican Party in a most remarkable fashion; and

WHEREAS, your crucial work serves as the linchpin for the success and future promise of the Jefferson County Republican Party; and

WHEREAS, Norma Weidmar has worked tirelessly on behalf of the party and its candidates for the ultimate benefit of Jefferson County, Kentucky and our Nation.

NOW, THEREFORE, BE IT RESOLVED that the Kentucky House of Representatives does hereby honor and congratulate Norma Weidmar for her exemplary service to the Republican Party of Jefferson County. (Sponsored by Representative Casebier)

Representative K. Harper moved the adoption of the following **HR 149**:

HR 149, A RESOLUTION honoring Terry Johnson, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Terry Johnson as an exhibitor in "Kentucky Places" and wishes him continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Terry Johnson for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mr. Terry Johnson, 124 Pleasant Ridge Avenue, Ft. Mitchell, Kentucky, 41017.

HR 149 was adopted by voice vote.

Representative McBee moved the adoption of the following **HR 150**:

HR 150, A RESOLUTION honoring Gary Akers, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Gary Akers as an exhibitor in "Kentucky Places" and wishes him continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Gary Akers for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mr. Gary Akers, P.O. Box 100, Union, Kentucky, 41091.

HR 150 was adopted by voice vote.

Representative Stumbo moved the rules be suspended to act upon a Legislative Citations. Agreed.

Representative Stumbo moved the adoption of Legislative Citation No. 84. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby honors the distinguished services performed by Colonel C. E. Hodgin during the fifty years he was involved in the intricate operations of the Kentucky Military Institute formerly with campuses in Kentucky and Venus, Florida.

As Commandant of KMI, Col. Hodgin set an example to the school's students of integrity, responsibility and sterling character. He has been a remarkable influence to the students who studied under his direction. He has influenced state policymakers, successful corporate heads and political leaders. As a result of his guidance, successful KMI graduates live, work, and contribute in all fifty states and eight foreign countries.

It is only proper that Col. Hodgin be recognized by the KMI Educational Foundation with the "Spirit of Excellence Award" as he is the person largely responsible for the outstanding reputation that KMI left to posterity. (Sponsored by Representative Stumbo)

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 204, Representative B. Smith; **HB 370**, Representative Callahan; **HB 523**, Representative Riner; **HB 548**, Representative Riner; **HB 586**, Representative Riner; **HB 636**, Representative Riner; **HB 652**, Representative Riner; **HB 658**, Representative Scorsone; **HB 665**, Representative Hoover; **HB 728**, Representative Hourigan; **HB 730**, Representatives Callahan, Riner; **HB 772**, Representative Ackerson; **HB 785**, Representative Ford; **HB 796**, Representative Ackerson; **HB 827**, Representative Ford; **HB 833**, Representative Hoover; **HB 850**, Representative Riner; **HB 973**, Representative Hoover; **HB 989**, Representative Maggard; **HJR 57**, by Representative Ackerson; **HCR 125**, Representatives Bruce, Morris.

Representative Stumbo moved that the rules be suspended for the purpose of making adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Priddy moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Priddy moved that her vote be changed from "yea" to "nay" on **HB 505**. Agreed.

Representative Mason moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Mason moved that he be recorded as voting "yea" on **HCR 17**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 593** and **HB 505**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 244** and **HB 488**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that he be recorded as voting "yea" on **HR 152**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 1**, by Representative Johnson:

Amend printed copy of **HB 1** on page 1, line 4, after "*lottery*" the first time it appears, by deleting "*and may establish a state lottery to be*";

And on line 5, by deleting "*conducted in cooperation with other states*".

Floor Amendment No. 2 to **HB 1**, by Representative Johnson:

Amend printed copy of **HB 1** on page 1, line 6, after "*by*" by deleting "*or on behalf of*".

Floor Amendment No. 3 to **HB 1**, by Representative Johnson:

Amend printed copy of **HB 1** on page 1, line 4, after "*lottery*" the first time it appears by inserting "*to be conducted only through a series of weekly lotteries or drawings*".

Floor Amendment No. 1 to Committee Substitute to **HB 536**, by Representative Noe:

Amend printed copy of **HB 536/HCS** on page 2, lines 10 and 11, by deleting the words "*to increase the nurse aide's salary to not less than*" and inserting in lieu thereof "*in an amount equal to the difference between the facility's starting rate, prior to the training salary adjustment, for an inexperienced nurse aide and an amount equal to*"

And on page 2, line 17, by deleting the word "*seven (7)*" and inserting in lieu thereof "*eight (8)*"

And on page 2, line 19, after the word "*facilities,*" by inserting "*the Kentucky hospital association,*"

And on page 4, line 2, after the word "*council*" by inserting "*in addition to reasonable fees to recover the cost of administering this Act*"

And on page 12, lines 1 and 2, by deleting the words "*of not less than one hundred twenty-five percent (125%) of the minimum wage*" and inserting in lieu thereof "*, subject to the one time special adjustment to the administratively established maximum payment to accommodate such costs, as set forth in Section 2(3) of this Act*"

And on page 12, line 3, by deleting the words "*as required by Section 2 of this Act*"

And on page 12, line 4, after the word "*training*" by inserting "*, while the nurse aide is on the facility's payroll, not working in the facility and actually attending school,*"

And on page 12, line 8, after the word "*basis,*" by inserting "*subject to the one time special adjustment to the administratively established maximum payment to accommodate such costs,*"

And on page 12, lines 9 and 10, by deleting the words "*beds in the facility that are certified for medical assistance reimbursement*" and inserting in lieu thereof "*medicaid patient days in the facility*"

And on page 12, lines 13 and 14, by deleting the words "*certified for medical assistance reimbursement*" and inserting in lieu thereof "*occupied by patients receiving Medicaid reimbursement*"

Floor Amendment No. 1 to **HB 630**, by Representative Lear:

Amend printed copy of **HB 630** on page 1, line 1, by deleting "Section 1." and inserting in lieu thereof:

"SECTION 1. IT IS PROPOSED THAT A NEW SECTION OF THE CONSTITUTION OF KENTUCKY BE CREATED AND NUMBERED TO READ AS FOLLOWS:

SECTION 93A. The candidate for statewide elected state office who receives the greatest number of his party votes for that office, but such number is less than a majority of votes cast for the office for which he is a candidate, shall be required to participate in a runoff primary with the candidate of the same party receiving the second highest number of votes for the same office. The candidate receiving the highest number of votes in a runoff primary for the office for which he is a candidate shall be the nominee of his party for that office.

Section 2.";

And on page 1, line 7, after "Section" by deleting "2" and inserting in lieu thereof "3";

And on page 1, line 18, after "Section" by deleting "3" and inserting in lieu thereof "4";

And on page 2, line 18, after "Section" by deleting "4" and inserting in lieu thereof "5".

Floor Amendment No. 2 to **HB 630**, by Representative Scorsone:

Amend printed copy of **HB 630** on page 1, line 1, after "Section 1." by inserting:

"It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet on the first Tuesday after the first Monday in January in odd-numbered years for a period not to exceed *thirty* [~~ten~~] legislative days for the purposes of electing legislative leaders, adopting rules of procedure, [~~and the~~] organizing of committees, *addressing federal mandates, considering emergency budget matters, and considering a maximum of five subjects submitted jointly by the officers of both houses of the General Assembly and the governor*. The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session, and its sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

The members of the general assembly shall severally receive from the state treasury compensation for their services: provided, no change shall take effect during the session at which it is made; nor shall a *session occurring in odd-numbered years extend beyond March 15; nor shall a* session of the general assembly continue beyond sixty legislative days, exclusive of Sundays, legal holidays or any day on which neither House meets, except that no regular session shall extend beyond April 15 of even-numbered years; but this limitation as to length of session shall not apply to the senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day.

Section 3."

And on page 1, line 7, after "Section" by deleting "2" and inserting in lieu thereof "4";

And on page 1, line 18, after "Section" by deleting "3" and inserting in lieu thereof "5";

And on page 2, line 18, after "Section" by deleting "4", and inserting in lieu thereof "6".

Floor Amendment No. 3 to **HB 630**, by Representative LeMaster:

Amend printed copy of **HB 630** on page 1, after "Section 1.", by inserting:

"It is proposed that Section 30 of the Constitution of Kentucky be amended to read as follows:

Members of the House of Representatives and Senators shall be elected at the general election in *odd*[~~even~~]-numbered years for terms of four years for Senators and two years for members of the House of Representatives. The term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election.

Section 2. It is proposed that Section 31 of the Constitution of Kentucky be amended to read as follows:

At the general election to be held in November, *1991*[~~1984~~], and every two years thereafter, there shall be elected for four years one Senator in each Senatorial District in which the term of his predecessor in office will then expire and in every Representative District one Representative for two years.

Section 3."

And on page 1, line 7, after "Section" by deleting "2" and inserting in lieu thereof "4";

And on page 1, line 18, after "Section" by deleting "3" and inserting in lieu thereof "5";

And on page 2, line 18, after "Section" by deleting "4." and inserting in lieu thereof "6.

It is proposed that Section 256 of the Constitution of Kentucky be amended to read as follows:

Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each

House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election [~~for members of the House of Representatives~~], the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. Not more than four amendments shall be voted upon at any one time. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. The approval of the Governor shall not be necessary to any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

Section 7. It is further provided as a part of this amendment a schedule of transitional provisions for the purposes of this amendment, that:

(1) The term of office of Representatives elected in 1988 shall be three (3) years.

(2) The term of office of Senators from odd-numbered districts elected in 1988 shall be five (5) years.

(3) The term of office of Senators from even-numbered districts elected in 1990 shall be five (5) years.

Section 8."

Floor Title Amendment No. 1 to **HB 630**, by Representative Lear:

Amend printed copy of **HB 630** by amending the title to read as follows:

"AN ACT proposing to amend sections of the Constitution of Kentucky relating to terms of elected officials.".

Floor Title Amendment No. 2 to **HB 630**, by Representative Scorsone:

Amend printed copy of **HB 630** by amending the title to read as follows:

"AN ACT proposing to amend Sections 36, 42, 71, 82 and 93 of the Constitution of Kentucky relating to state government.

Floor Title Amendment No. 3 to **HB 630**, by Representative LeMaster:

Amend printed copy of **HB 630** by amending the title to read as follows:

"AN ACT proposing to amend Sections 30, 31, 71, 82, 93 and 256 of the Constitution of Kentucky relating to elections.

Floor Amendment No. 1 to **HB 665**, by Representative L. Clark:

Amend printed copy of **HB 665** on page 15, by deleting lines 21 through 26 in their entirety;

On page 16, by deleting lines 1 through 26 in their entirety; and

On page 17, by deleting lines 1 through 15 in their entirety.

On page 17, line 16, renumber Section 11 to Section 10.

On page 26, line 26, renumber Section 12 to Section 11.

On page 28, line 19, renumber Section 13 to Section 12.

On page 29, line 17, renumber Section 14 to Section 13.

On page 29, line 20, by deleting "13" and inserting "12" in lieu thereof.

Floor Amendment No. 2 to **HB 665**, by Representative B. Smith:

Amend printed copy of **HB 665** on page 2, after line 1, by adding the following:

Section 3. KRS 138.221 subsections (1) and (2) are amended to read as follows:

(1) (a) For the purpose of assuring adequate, economical, and stable supplies of fuel-grade alcohol for the use and benefit of residents and motorists in this state; to preserve and stimulate the existing fuel-grade alcohol industry; and to encourage the establishment and growth of new fuel-grade alcohol facilities, the cabinet is hereby authorized to establish and make available from the revenues collected pursuant to KRS 138.220, a fuel-grade alcohol credit fund, and to use the fund, for and on behalf of the Commonwealth, to partially offset the operating costs of those fuel-grade alcohol producers that contribute to the economy of this state, by participating in and subsidizing the market costs for fuel-grade alcohol offered for sale in this state in the manner and form hereinafter provided; and

(b) Any dealer in gasoline shall receive a credit for each gallon of fuel-grade alcohol, or fuel-grade alcohol contained in a gasoline-alcohol blend, which is blended or purchased by a dealer and on which the tax imposed by KRS 138.220 is due and payable, except as otherwise provided in subsection (6) of this section. The credit shall be in the amount specified in subsection (2) of this section [~~for two (2) annual periods beginning on July 1, 1986, and ending on June 30, 1988~~]. Any such credit shall be reduced by the same amount per gallon as any increase per gallon in the federal excise tax exemption for alcohol fuels effective on the date of such increase.

(2) *Effective July 1, 1988,* the total amount of the credit authorized [~~in any annual period~~] by subsection (1) of this section shall not exceed *nineteen million dollars ($19,000,000) for the respective annual period ending June 30, 1989; seventeen million dollars ($17,000,000) for the respective annual period ending on June 30,1990* [~~twenty-one million dollars ($21,000,000)~~] and the per gallon credit to a dealer shall be:

(a) [~~Thirty-five cents (35)~~] For each gallon of fuel-grade alcohol certified to a dealer or a dealer's supplier by a licensed alcohol producer to have been distilled within Kentucky, *thirty-five cents (35) during the respective annual period ending on June 30,1989; thirty cents (30) during the respective annual period ending June 30, 1990.*[~~;~~]

(b) [~~Twenty-five cents (25)~~] For each gallon of fuel-grade alcohol certified to a dealer or a dealer's supplier by a licensed alcohol producer to be qualified for the credit pursuant to subsection (3) of this section, *twenty cents (20) during the respective annual period ending on June 30, 1989; twenty cents (20) during the respective annual period ending on June 30, 1990.*[~~;~~]

(c) Provided that, within ninety (90) days after the end of each annual period the cabinet shall determine if the total credits authorized pursuant to paragraph (a) plus paragraph (b) of this subsection have exceeded *nineteen million dollars ($19,000,000) for the respective annual period ending on June 30, 1989; seventeen million dollars ($17,000,000) for the respective annual period ending on June 30, 1990* [~~twenty-one million dollars ($21,000,000)~~]. If such *annual* limit has been exceeded, the cabinet shall further determine the amount of such excess, if any, *(i)* by which the credits authorized pursuant to paragraph (a) of this subsection have exceeded *nine million eighty hundred thousand dollars ($9,800,000) for the respective annual period ending on June 30, 1989; eight million four hundred thousand dollars ($8,400,000) for the respective annual period ending on June 30, 1990,* [~~eight and one-half million dollars ($8,500,000)~~] and *(ii)* by which the credits authorized pursuant to paragraph (b) of this subsection have exceeded *nine million two hundred thousand dollars ($9,200,000) for the respective annual period ending June 30, 1989; eight million six hundred thousand dollars ($8,600,000) for the annual period ending on June 30, 1990* [~~twelve and one-half million dollars ($12,500,000)~~]. The cabinet shall assess the amount of each such excess credit, if any, as a reimbursement excise tax to the licensed alcohol producer certifying the fuel-grade alcohol to a dealer or a dealer's supplier in respect of which the excess credit was claimed. The reimbursement excise tax shall be payable within thirty (30) days from the date of assessment and shall be collectible in the manner and form prescribed for taxes assessed pursuant to KRS 138.220;

(d) The cabinet shall maintain during each annual period a cumulative monthly record of all credits authorized pursuant to paragraphs (a) and (b) of this subsection and shall upon request report the status of such record to licensed alcohol producers.

and by renumbering subsequent sections to conform.

Floor Amendment No. 1 to **HB 719**, by Representative Donnermeyer:

Amend printed copy of **HB 719** on page 24, after line 10, by adding the following:

Section 11. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in [~~subsection (1) of~~] KRS 157.564 *or KRS 157.575*. In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection (1) of KRS 157.564 *or KRS 157.575.*

(b) In the event that an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . .," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) No district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate within the limits imposed in subsection (2) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010[~~, except as provided in subsection (1) of KRS 157.564,~~] until the district board of education has complied with the provisions of subsection (10) of this section*; except as follows:*

(a) Except as provided in KRS 157.564; or

(b) Except as provided in KRS 157.575; and

(c) Except if a school district did not levy the maximum tax rate certified for KRS 157.440, 160.470 and/or KRS 160.477. During school year 1978-79, the amount of the tax rate not levied for 1978-79 shall be added

to the tax rates certified by the superintendent of public instruction for the 1988-89 school year.

(4) The superintendent of public instruction shall certify to each district board of education, by June 30 of each year, the following:

(a) The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(c) The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(5) Upon completion of action on property assessment data the department of revenue shall submit to the superintendent of public instruction, certified property assessment data as required in KRS 133.125.

(6) Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the state board of education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(7) The budget shall be disapproved by the state board of education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval.

In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the state board of education for its final approval.

(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the state board of education.

(9) Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(10) (a) A district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate within the limits of subsection (2) of this section which exceed the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for such testimony.

(11) (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in subsection (1) of KRS 157.564, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in subsection (1) of KRS 157.564 *or KRS 157.575*, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

Floor Amendment No. 2 to **HB 733**, by Representative Burch:

Amend printed copy of **HB 733** on page 7 between lines 24 and 25,

By inserting a new section to read as follows:

"SECTION 8. A NEW SECTION OF KRS CHAPTER 433 IS CREATED TO READ AS FOLLOWS:

There shall be no Act prohibiting the construction or repair or upgrade of caves and caverns in the Commonwealth of Kentucky.

Also on page 7, line 25,

By renumbering SECTION 8 as SECTION 9

And on page 8, line 5,

By renumbering Section 9 as Section 10

Floor Amendment No. 1 to **HB 747**, by Representative Donnermeyer:

Amend printed copy of **HB 747** on page 4, line 6, after the period by inserting the following: *Nothing in this subsection shall apply to the data processing operations or personnel of the Kentucky retirement systems or the Kentucky teachers' retirement system.*

Floor Amendment No. 1 to **HB 777**, by Representative B. Richardson:

Amend printed copy of **HB 777** on page 28, line 18 by deleting "*25*" and inserting in lieu thereof "*19*";

On page 33, line 26 by deleting "*this subtitle*" and inserting in lieu thereof "*Section 35 of this Act*".

On page 28, line 18 by deleting "*25*" and inserting in lieu thereof "*19*";

On page 33, line 26 by deleting "*this subtitle*" and inserting in lieu thereof "*Section 35 of this Act*".

Floor Amendment No. 1 to Committee Substitute to **HB 917**, by Representative Clarke:

Amend printed copy of **HB 917** on page 18, line 9, by deleting the new, underscored language, "*new property*" and inserting in its place the following:

"*the value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls*".

Page 19, line 5, by deleting the new, underscored word "*new*";

Line 6, by deleting the new, underscored word "*property*" and inserting in its place the language, "*the value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls*";

Line 8, by deleting the new, underscored word "*new*";

Line 9, by deleting the new, underscored word "*property*" and inserting in its place the language, "*the value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls*".

The Clerk announced the following meetings:

The Committee on Labor and Industry fifteen minutes upon adjournment, Room 109.

The Committee on Appropriations and Revenue, March 11, 1988, upon adjournment.

The Committee on Education, March 14, 1988, 1:00 p.m., Room 110.

The Committee on Health and Welfare, upon adjournment, Room 116.

The Committee on Counties and Special Districts, March 11, 1988, 8:00 a.m., Room 116.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 11, 1988.

The motion that the House adjourn until 10:00 a.m., Friday, March 11, 1988 was adopted by voice vote.

FRIDAY, MARCH 11, 1988

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend T. R. Smith, Faith Baptist Temple, Louisville, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 10, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 177**, **SB 236**, **SB 239**, **SB 240**, **SB 261**, **SB 265**, **SB 267**, **SB 274**, **SB 281**, **SB 283**, **SB 286**, **SB 294**, **SCR 82**, **HB 425** and **HB 434**.

Introduction of Resolutions

HR 158, by Representative Will: A RESOLUTION honoring Wendell Barry Stevens, Kentucky Artist.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 262**.

Banking and Insurance: **SB 336**, **SB 305**.

Judiciary-Criminal: **SB 179**.

Labor and Industry: **SB 195**.

Natural Resources and Environment: **SJR 65**.

State Government: **SB 211**, **SCR 68**, **SB 297**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bill has been posted for Committee consideration:

Energy: **HB 986**.

Report of Committees

The Committee on Judiciary-Criminal reported **HB 581**, **HB 649** with Committee Amendment attached thereto, **HB 767**, **HB 1002** and **HB 1007** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 581, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 432.570 is amended to read as follows:

(1) It shall be unlawful for any person except a member of a police department or police force or an official with written authorization from the head of a department which regularly maintains a police radio system authorized or licensed by the federal communications commission, to have in his or her possession, or in an automobile or other vehicle, or to equip or install in or on any automobile or other vehicle, any mobile radio set or apparatus capable of either receiving or transmitting radio or other messages or signals within the wave length or channel now or which may hereafter be allocated by the federal communications commission, or its successor, for the purpose of police radios, or which may in any way intercept or interfere with the transmission of radio messages by any police or other peace officers and it shall be unlawful for any car, automobile or other vehicle other than one publicly owned and entitled to an official license plate issued by the state issuing a license for said car, to have, or be equipped with such sets or apparatus even though said car is owned by an officer. Provided, however, the provisions of this section shall not apply to any automobile or other vehicle owned or operated by a member of a sheriff's department authorized by the fiscal court to operate a radio communications system that is licensed by the federal communications commission or other federal agency having the authority to license same.

(2) Any person guilty of violating any of the provisions of this section shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not less than fifty dollars ($50.00) and not exceeding five hundred dollars ($500), or imprisonment not exceeding twelve (12) months, or both so fined and imprisoned.

(3) It shall be the duty of any and all peace officers to seize and hold for evidence any and all equipment had or used in violation of the provisions of this section, and, upon conviction of the person having, equipping or using such equipment, it shall be the duty of the trial court to order such equipment or apparatus destroyed, forfeited or escheated to the Commonwealth of Kentucky, and said property may be ordered destroyed, forfeited or escheated as above provided without a conviction of the person charged with violating this section.

(4) Nothing contained in this section shall prohibit the possession of a radio by:

(a) An individual who is a retailer or wholesaler and in the ordinary course of his business offers such radios for sale or resale;

(b) A commercial or educational radio or television station, licensed by the federal communications commission, at its place of business; or

(c) An individual who possesses such a radio, provided it is capable of receiving radio transmissions only and is not capable of sending or transmitting radio messages, at his place of residence; licensed commercial auto towing trucks; newspaper reporters and photographers, *amateur radio operators licensed by the Federal Communications Commission,* disaster and emergency services personnel authorized in writing by the state director of disaster and emergency service (for state personnel) or chief executive of the city or county (for their respective personnel); peace officers authorized in writing by the head of their law enforcement agency, commonwealth's attorneys and their assistants, county attorneys and their assistants, except that it shall be unlawful to use such radio to facilitate any criminal activity or to avoid apprehension by law enforcement officers. Violation of this section shall, in addition to any other penalty prescribed by law, result in a forfeiture to the local law enforcement agency of such radio.

(5) The secretary of finance is hereby empowered by issuance of a secretary's order to exempt from the prohibitions and penalties of this section the possession and use of any and all radio communication equipment that he finds is necessary to be owned and used by members of the general public and other non-police persons for utilization in the N.O.A.A. weather radio system.

HB 649, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2) and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS

189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, subsection (1) of KRS 189.560, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456 and 189.960, shall be fined not less than *two hundred dollars ($200)* [~~twenty dollars ($20)~~] nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not *less than forty-eight (48) hours nor* more than one (1) year, or both. Any person who violates paragraph (c) of subsection (4) of KRS 189.390 shall be fined not less than eleven dollars ($11.00) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person convicted of violating paragraph (c) of subsection (4) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.221, 189.222, 189.226, 189.230, 189.270 or 189.271 shall, upon conviction, be fined in an amount equal to two cents (2) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents (3) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents (5) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents (7) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents (9) per pound when the excess exceeds five thousand (5,000) pounds but in no case shall the fine be less than sixty dollars ($60) nor more than five hundred dollars ($500).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, or 189.490, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and upon conviction thereof, shall be fined not less than ten dollars ($10.00) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the department of vehicle regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) Any person who violates KRS 189.170 shall be fined not less than fifteen dollars ($15) nor more than fifty dollars ($50) for each day he operates a truck in violation of KRS 189.170.

(4) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(5) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(6) Any person who violates subsection (1) of KRS 189.370 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(7) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(8) Any person who violates KRS 189.510 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(9) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned not less than thirty (30) days nor more than twelve (12) months. or both.

(11) Any person who violates any of the provisions of KRS 189.550 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(12) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(13) The fines imposed by paragraph (a) of subsection (4) and subsections (7) and (8) of this section shall, in the case of a public highway, be paid into the county road fund, and in case of a privately owned road or bridge be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(14) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(15) Any person who violates any provision of KRS 189.575 shall, upon conviction thereof, be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(16) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be fined not less than twenty dollars ($20) nor more than two hundred dollars ($200), or imprisoned for not more than thirty (30) days or both.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name such vehicle used in the transportation of inflammable liquids or explosives is licensed, such person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for seven (7) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100) or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person convicted for violation of KRS 189.393 shall be punished upon a first conviction by imprisonment for a period of not less than five (5) days nor more than ninety (90) days, or by fine of not less than thirty-five dollars ($35) nor more than five hundred dollars ($500), or by both such fine and imprisonment, and on a second or subsequent conviction shall be punished by imprisonment for not less than ten (10) days nor more than six (6) months, or by a fine of not less than sixty dollars ($60) nor more than one thousand dollars ($1,000), or by both such fine and imprisonment.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accord with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of such a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020

(but in amounts consistent with this chapter) and the response to nonpayment of fines shall be governed by KRS 534.060.

Section 2. KRS 431.005 is amended to read as follows:

(1) A peace officer may make an arrest:

(a) In obedience to a warrant; or

(b) Without a warrant when a felony is committed in his presence; or

(c) Without a warrant when he has probable cause to believe that the person being arrested has committed a felony; or

(d) Without a warrant when a misdemeanor, as defined in KRS 431.060, has been committed in his presence; or

(e) Without a warrant when a violation of KRS 189.290, 189.393, 189.520, 189.580, 511.080, or 525.070 has been committed in his presence, except that a violation of KRS 189A.010 need not be committed in his presence in order to make an arrest without a warrant if the officer has probable cause to believe that the person has violated KRS *189.580 or* 189A.010.

(2) Any peace officer may arrest without warrant when he has probable cause to believe that if the person is not arrested he will present a danger or threat of danger to others if not immediately restrained and in addition he has probable cause for believing that said person has intentionally or wantonly caused physical injury to his spouse, parent, grandparent, child, or stepchild. Within twelve (12) hours following apprehension and booking of a person arrested under this section, an officer shall return to the abused person, if the abused person is an adult, and request that a signed, written statement be made by the abused person stating that an abuse occurred and the person who committed it. If the abused person refuses to sign the statement, the charges shall be summarily dismissed and the defendant released from custody.

(3) For purposes of subsection (2) of this section a "peace officer" is a full-time sworn officer of the Kentucky state police, a full-time city policeman, a full-time county policeman, a full-time city-county policeman, a duly elected sheriff, or a full-time paid deputy sheriff.

(4) A private person may make an arrest when a felony has been committed in fact and he has probable cause to believe that the person being arrested has committed it.

The Committee Amendment No. 1 to **HB 649** is as follows:

Amend printed copy of **HB 649** on page 1, line 12, to delete underlined language; and

On page 1, line 13, to delete "*$200*" and to delete the bracketing and strike through of "twenty dollars ($20)"; and

On page 1, line 16, to add: "*two hundred dollars ($200)*" at the beginning of the line and to place a bracket "[" before "twenty" and to place a bracket "]" after "($20)" and to strike through the intervening material.

HB 767, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 506.120 is amended to read as follows:

(1) No person, with the purpose to establish or maintain a criminal syndicate or to facilitate any of its activities, shall do any of the following:

(a) Organize or participate in organizing a criminal syndicate or any of its activities;

(b) Provide material aid to a criminal syndicate or any of its activities, whether such aid is in the form of money or other property, or credit;

(c) Manage, supervise, or direct any of the activities of a criminal syndicate, at any level of responsibility;

(d) Knowingly furnish legal, accounting, or other managerial services to a criminal syndicate;

(e) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of, any offense of a type in which a criminal syndicate engages on a continuing basis;

(f) Commit, or conspire or attempt to commit or act as an accomplice in the commission of, any offense of violence;

(g) Commit, or conspire or attempt to commit, or act as an accomplice in the commission of bribery in violation of KRS Chapters 518 or 521, or KRS 119.205, 121.025, 121.055, 524.070, 156.465, 45A.340, 63.090, 6.080, 18A.145, 244.390 or 244.600.

(2) Whoever violates this section is guilty of engaging in organized crime, which shall be a class B felony.

(3) As used in this section "criminal syndicate" means five (5) or more persons collaborating to promote or engage in any of the following on a continuing basis:

(a) Extortion or coercion in violation of KRS 514.080, 276.280, 276.310, or 521.020;

(b) Engaging in, promoting, or permitting prostitution in violation of KRS Chapter 529;

(c) Any theft offense as defined in KRS Chapter 514;

(d) Any gambling offense as defined in KRS 411.090, KRS Chapter 528, or section 226 of the Constitution;

(e) Illegal trafficking in controlled substances as prohibited by KRS Chapter 218A, in intoxicating or spirituous liquor as defined in KRS Chapters 242 or 244, or in destructive devices or booby traps as defined in KRS Chapter 237;

(f) Lending at usurious interest, and enforcing repayment by illegal means in violation of KRS Chapter 360.

(g) Committing, conspiring or attempting to commit or act as an accomplice in, engaging in, promoting, or permitting a violation of any offense under KRS Chapters 116 to 121.

HB 1002, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.025 is amended to read as follows:

(1) (a) Upon conviction of a defendant in cases where the death penalty may be imposed a hearing shall be conducted. In such hearing the judge shall hear additional evidence in extenuation, mitigation, and aggravation of punishment, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant, or the absence of any prior conviction and pleas: provided, however, that only such evidence in aggravation as the state has made known to the defendant prior to his trial shall be admissible. The judge shall also hear argument by the defendant or his counsel and the prosecuting attorney, as provided by law, regarding the punishment to be imposed. The prosecuting attorney shall open and the defendant shall conclude the argument. In cases in which the death penalty may be imposed, the judge when sitting without a jury shall follow the additional procedure provided in subsection (2) of this section. Upon

the conclusion of the evidence and arguments the judge shall impose the sentence or shall recess the trial for the purpose of taking the sentence within the limits prescribed by law. If the trial court is reversed on appeal because of error only in the presentence hearing, the new trial which may be ordered shall apply only to the issue of punishment;

(b) In all cases in which the death penalty may be imposed and which are tried by a jury, upon a return of a verdict of guilty by the jury, the court shall resume the trial and conduct a presentence hearing before the jury. Such hearing shall be conducted in the same manner as presentence hearings conducted before the judge as provided in paragraph (a) of this subsection, including the record of any prior criminal convictions and pleas of guilty or pleas of nolo contendere of the defendant. Upon the conclusion of the evidence and arguments, the judge shall give the jury appropriate instructions, and the jury shall retire to determine whether any mitigating or aggravating circumstances, as defined in subsection (2) of this section, exist and to recommend a sentence for the defendant. Upon the findings of the jury, the judge shall fix a sentence within the limits prescribed by law.

(2) In all cases of offenses for which the death penalty may be authorized, the judge shall consider, or he shall include in his instructions to the jury for it to consider, any mitigating circumstances or aggravating circumstances otherwise authorized by law and any of the following statutory aggravating or mitigating circumstances which may be supported by the evidence:

(a) Aggravating circumstances:

1. The offense of murder or kidnapping was committed by a person with a prior record of conviction for a capital offense, or the offense of murder was committed by a person who has a substantial history of serious assaultive criminal convictions;

2. The offense of murder or kidnapping was committed while the offender was engaged in the commission of arson in the first degree, robbery in the first degree, burglary in the first degree, rape in the first degree, or sodomy in the first degree;

3. The offender by his act of murder, armed robbery, or kidnapping knowingly created a great risk of death to more than one (1) person in a public place by means of a destructive device, weapon, or other device which would normally be hazardous to the lives of more than one (1) person;

4. The offender committed the offense of murder for himself or another, for the purpose of receiving money or any other thing of monetary value, or for other profit;

5. The offense of murder was committed by a person who was a prisoner and the victim was a prison employe engaged at the time of the act in the performance of his duties;

6. The offender's act or acts of killing were intentional and resulted in multiple deaths; [~~and~~]

7. The offender's act of killing was intentional and the victim was a state or local public official or police officer, sheriff, or deputy sheriff engaged at the time of the act in the lawful performance of his duties;

(8) The offender's act of killing was intentional and the victim was twelve (12) years of age or less, or was sixty-five (65) years of age or older, or was physically or mentally helpless at the time of the offense; and

(9) The offender's act of killing was intentional and the murder was particularly heinous and involved physical or mental torture of the victim or the mutilation of the victim;

(b) Mitigating circumstances:

1. The defendant has no significant history of prior criminal activity;

2. The capital offense was committed while the defendant was under the influence of extreme mental or emotional disturbance even though the influence of extreme mental or emotional disturbance is not sufficient to constitute a defense to the crime;

3. The victim was a participant in the defendant's criminal conduct or consented to the criminal act;

4. The capital offense was committed under circumstances which the defendant believed to provide a moral justification or extenuation for his conduct even though the circumstances which the defendant believed to provide a moral justification or extenuation for his conduct are not sufficient to constitute a defense to the crime;

5. The defendant was an accomplice in a capital offense committed by another person and his participation in the capital offense was relatively minor;

6. The defendant acted under duress or under the domination of another person even though the duress or the domination of another person is not sufficient to constitute a defense to the crime;

7. At the time of the capital offense the capacity of the defendant to appreciate the criminality of his conduct to the requirements of law was impaired as a result of mental disease or defect or intoxication even though the impairment of the capacity of the defendant to appreciate the criminality of his conduct or to conform the conduct to the requirements of law is insufficient to constitute a defense to the crime; and

8. The youth of the defendant at the time of the crime.

(3) The instructions as determined by the trial judge to be warranted by the evidence or as required by KRS 532.030(4) shall be given in charge and in writing to the jury for its deliberation. The jury, if its verdict be a recommendation of death, or imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall designate in writing, signed by the foreman of the jury, the aggravating circumstance or circumstances which it found beyond a reasonable doubt. In non-jury cases the judge shall make such designation. In all cases unless at least one (1) of the statutory aggravating circumstances enumerated in subsection (2) of this section is so found, the death penalty or the sentence to imprisonment for life without benefit of probation or parole until the defendant has served a minimum of twenty-five (25) years of his sentence, shall not be imposed.

HB 1007. AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 531.010 is amended to read as follows:

As used in this chapter:

(1) "Distribute" means to transfer possession of, whether with or without consideration.

(2) "Matter" means any book, magazine, newspaper, or other printed or written material or any picture, drawing, photograph, motion picture, *video cassette,* or other pictorial representation or any statue or other figure, or any recording transcription or mechanical, chemical or electrical reproduction or any other articles, equipment, machines, or materials.

(3) "Obscene" means:

(a) [~~To~~] The average person, applying *local* contemporary community standards, *would find that the matter* [~~the predominant appeal of the matter~~], taken as a whole, *appeals* [~~is~~] to *the* prurient interest. [~~in sexual conduct; and~~] *In order for an item as a whole to be found or intended to have an appeal to the prurient interest, it is not necessary that the item be successful in arousing or exciting any particular form of prurient interest either in the hypothetical average person, in a member of its intended and probable recipient group or in the trier of fact; and*

(b) The *average person, applying local contemporary community standards, would find that the* matter depicts or describes [~~the sexual conduct~~] in a patently offensive way, *sexual conduct as that term is described in this section. Contemporary community standards shall be set by what is in fact accepted in-the community as a whole*; and

(c) *A reasonable person would find that* the matter, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(4) "Sexual conduct" means *actual or simulated acts of, whether involving persons or persons and animals:* [~~acts of masturbation, homosexuality, lesbianism, bestiality, sexual intercourse, or deviant sexual intercourse; or physical contact with the genitals, flagellation, or excretion for the purpose of sexual stimulation or gratification.~~]

(a) Sexual intercourse, including genital-genital, oral-genital, anal-genital or oral-anal, whether between persons of the same or opposite sex.

(b) Penetration of the vagina or rectum by any object except when done as part of a recognized medical procedure.

(c) Sexual bestiality.

(d) Masturbation.

(e) Sadomasochistic abuse.

(f) Lewd exhibition of the genitals, pubic or rectal areas of any person.

(g) Defecation or urination in the context of a sexual act.

(5) "Simulated" means any depicting of the genitals or rectal areas which gives the appearance of sexual conduct or incipient sexual conduct.

(6) "Sadomasochistic abuse" means flagellation or torture by or upon a person clad in undergarments, a mask or bizarre costume, or the condition of being fettered, bound or otherwise physically restrained on the part of one (1) so clothed, for the purpose or in the context of sexual gratification or abuse.

(7) "Obscene device" means a device including a dildo or artificial vagina, designed or primarily used for the stimulation of human genital organs.

(8) "Knowledge of the content and character" means having general knowledge or awareness of the character of the matters or devices he distributed and that he knew the nature and character of the matters or devices, whether or not there is actual knowledge of the specific contents thereof. This knowledge may be proven by direct or circumstantial evidence or both.

Section 2. KRS 531.020 is amended to read as follows:

(1) A person is guilty of distribution of obscene matter when, having knowledge of its content and character, he:

(a) Sends or causes to be sent into this state for sale or distribution; or

(b) Brings or causes to be brought into this state for sale or distribution; or

(c) In this state, he:

1. Prepares, or

2. Publishes, or

3. Prints, or

4. Exhibits, or

5. Distributes, or

6. Offers to distribute, or

7. Has in his possession with intent to distribute, exhibit or offer to distribute, any obscene matter *or obscene device, or*

8. Presents or participates in presenting the live, recorded or exhibited performance of any obscene matter to the public or an audience for consideration or commercial purpose, or

9. Owns, leases, or manages any theatre, building, structure, room, place, or commercial establishment and leases, lets, or permits the building, structure, room, place or commercial establishment to be used for the purpose of presenting obscene exhibitions or performances or for the purpose of distributing obscene matters or obscene devices.

(2) Distribution of obscene matter is a Class *A* [~~B~~] misdemeanor unless the defendant has in his possession more than one unit of material coming within the provisions of this chapter, in which case it shall be a Class *D felony* [~~A misdemeanor~~]. *Subsequent violations of this section shall be a Class C felony.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) Expert testimony or other ancillary evidence shall not be required to determine obscenity if the allegedly obscene item has been placed in evidence. The matter itself shall be the best evidence of what it represents.

(2) The fact that other sexually explicit items are distributed in the local community shall not be admissible as evidence of the local contemporary community standard unless it is shown that:

(a) The other item is similar to the item at issue. Similarity shall be measured by the degree of sexual explicitness and type of sexual conduct or activity depicted. It shall also be in a similar medium as the item at issue; and

(b) The other item enjoys a reasonable degree of community acceptance.

SECTION 4. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

The following items used or intended for use in violation of this chapter shall be subject to seizure and forfeiture pursuant to KRS 500.090.

(1) All obscene matters and obscene devices which have been produced, published, copied, sold, possessed, rented, loaned, transported or transmitted in violation of this chapter.

(2) All property which is used or intended to be used as a container for property described in subsection (1) of this section.

(3) All conveyances including aircraft and motor vehicles which are used, or intended for use, to transport, or in any manner facilitate the transportation, sale, receipt, possession, or concealment of property described in subsection (1) of this section.

(4) All books, records, negatives, microfilm, film, and data which are used or intended to be used in violation of this chapter.

(5) All monies, negotiable instruments, securities or other things of value furnished by any person in exchange for any obscene matter or device, all proceeds traceable to such an exchange and all money, negotiable instruments or securities used or intended to be used to facilitate any violation of this chapter.

(6) All real property, including any right, title and interest in the whole of any lot or tract of land and any appurtenance and improvements, which is used or intended to be used, in any manner or part, to commit or facilitate the commission of a violation of this chapter.

(7) As to paragraph (6) of this section, no property shall be forfeited to the extent an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner. As to any issue arising regarding "knowledge of character" or any obscene item or obscene device, the definition contained in section KRS 531.010 shall apply.

(8) The above provisions shall not include obscene matter or obscene devices merely possessed by an individual in the privacy of his own home and for no purpose in violation of this statute.

SECTION 5. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) Any sexually oriented business which exhibits on the premises in a viewing room or cubicle of less than one hundred fifty (150) square feet of floor space, a film, video cassette, or other video reproduction or live performance, which depicts specified sexual activities or specified anatomical areas, shall comply with the following requirements:

(a) The establishment shall submit to the local health department a diagram of the premises showing the location of one (1) or more manager's stations and the location of all overhead lighting fixtures and designating any portion of the premises in which patrons will not be permitted. A manager's station shall not exceed thirty-two (32) square feet of floor area. A professionally prepared diagram in the nature of an engineer's or architect's blueprint shall not be required; however, each diagram shall be oriented to the north or to some designated street or object and shall be drawn to a designated scale on which marked dimensions are sufficient to show the various internal dimensions of all areas of the interior of the premises to an accuracy of plus or minus six (6) inches.

(b) No alteration in the configuration of the interior of the premises shall be made without submitting a new diagram to the local health department.

(c) The establishment shall have at least one (1) employe on duty and situated in each manager's station at all times that any patron is present inside the premises.

(d) The interior of the premises shall be configured in a manner providing an unobstructed view from the manager's station of every area of the premises to which any patron is permitted access for any purpose excluding restrooms. Restrooms shall not contain video reproduction equipment or be used for live performances. If the premises has two (2) or more manager's stations, then the interior of the premises shall be configured to provide an unobstructed view of each area of the premises to which any patron is permitted access for any purpose from at least one (1) of the manager's stations. The view required shall be by direct line of sight from the manager's station.

(e) No viewing room or cubicle shall be occupied by more than one (1) person at any time.

(f) It shall be the duty of the operator of the establishment, and it shall also be the duty of any agents, managers, and employes present in the premises, to ensure that the view specified in subsection (4) remains unobstructed by any doors, walls, merchandise, display racks or other materials at all times, and to ensure that no patron is permitted access to any area of the premises which has been designated as an area in which patrons will not be permitted.

(g) The premises shall be equipped with overhead lighting fixtures of sufficient intensity to illuminate every place to which patrons are permitted access.

(2) Unless the context otherwise requires:

(a) "Sexually oriented business" means any commercial establishment where, for any form of consideration, films, motion pictures, video cassettes, slides, or similar graphic reproductions, or live performances are regularly shown which depict "specified sexual activities" or "specified anatomical areas."

(b) "Specified anatomical areas" means the male genitals in a state of sexual arousal or the female vulva.

(c) "Specified sexual activities" means and includes any of the following:

1. The fondling or other erotic touching of the human genitals, pubic region, buttocks, anus, or female breasts;

2. Sex acts, normal or perverted, actual or simulated, including intercourse, oral copulation, or sodomy;

3. Masturbation, actual or simulated; or

4. Excretory functions as a part of or in connection with any of the activities as set forth in 1. through 3. above.

(3) Any person owning a sexually oriented business shall execute an ownership disclosure form with the local health department. If the person who owns a sexually oriented business is other than an individual, each individual who has a ten percent (10%) or greater interest in the business shall sign the ownership disclosure form. If a corporation is listed as owner of a sexually oriented business, each individual having a ten percent (10%) or greater interest in the corporation shall sign the ownership disclosure form. All signatures shall be notarized.

(4) Within thirty (30) days of the transfer of the ownership, or a part thereof, of a sexually oriented business, any new owner shall execute an ownership disclosure form with the local health department.

(5) Violation of any of the provisions of this section is a Class D felony. Any sexually oriented business which is convicted of a violation of this section shall be subject to closure as a public nuisance.

SECTION 6. A NEW SECTION OF KRS CHAPTER 531 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of possession of child pornography when having knowledge of its content and character, he has in his possession, care, custody or control any matter that visually depicts any minor, under the age of eighteen (18) years, engaged in or portraying a sexual performance.

(2) Possession of child pornography is a Class A misdemeanor, unless the defendant has in his possession more than one (1) unit of material coming within the provisions of this section, in which case it shall be a Class D felony.

The Committee on Labor and Industry reported **HB 481** with Committee Amendment attached thereto, **HB 648** with Committee Substitute attached thereto, **HB 672** with Committee Substitute attached thereto, and **HB 688** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 481, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

An employer shall notify any employe who has received an injury or illness of the statute of limitations applicable to the injury or illness, not later than ninety (90) days prior to the expiration date.

The Committee Amendment No. 1 to **HB 481** is as follows:

Amend printed copy of **HB 481** on page 1, line 3, after the word "*employer*" insert the following: "*who has been given timely notice*"

On page 1, line 3, after the word "*notify*" insert the following: "*in writing*"

HB 648, AN ACT relating to boiler safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.150 is amended to read as follows:

(1) Any person aggrieved by an order or act of a boiler and pressure vessel inspector *or chief inspector,* under this chapter, may, within fifteen (15) days of notice thereof, appeal from the order or act to the *board of boiler and pressure vessel rules which* [~~commissioner who~~] shall, within thirty (30) days thereafter, hold a hearing, after having given at least ten (10) days written notice to all interested parties. The commissioner shall, within thirty (30) days after the hearing, issue an appropriate order either approving or disapproving the order or act. A copy of such order [~~by the commissioner~~] shall be given to all interested parties.

(2) Within thirty (30) days after any order or act of the *board of boiler and pressure vessel rules* [~~commissioner~~], any person aggrieved thereby may file a petition in the Franklin Circuit Court for a review thereof. The court shall summarily hear the petition and may make any appropriate order or decree.

The Committee Substitute to **HB 648** is as follows:

HB 648, AN ACT relating to boiler safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 236.150 is amended to read as follows:

(1) Any person aggrieved by an order or act of a boiler and pressure vessel inspector *or chief inspector,* under this chapter, may, within fifteen (15) days of notice thereof, appeal from the order or act to the *board of boiler and pressure vessel rules which* [~~commissioner who~~] shall, within thirty (30) days thereafter, hold a hearing, after having given at least ten (10) days written notice to all interested parties. The *board* [~~commissioner~~] shall, within thirty (30) days after the hearing, issue an appropriate order either approving or disapproving the order or act *of an inspector; and the orders of the board shall be final, notwithstanding the provisions of KRS Chapter 198B*. A copy of such order [~~by the commissioner~~] shall be given to all interested parties.

(2) Within thirty (30) days after any order or act of the *board of boiler and pressure vessel rules* [~~commissioner~~], any person aggrieved thereby may file a petition in the Franklin Circuit Court for a review thereof. The court shall summarily hear the petition and may make any appropriate order or decree.

HB 672, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 342 IS CREATED TO READ AS FOLLOWS:

Notwithstanding other provisions of this chapter to the contrary, a final award for income benefits under this chapter shall be increased by fifteen percent (15%) when such final award has been the result of a contested claim for income benefits.

Section 2. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of the administrative law judge pursuant to the statutes and administrative regulations. In an original claim, no attorney fees shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to 20 percent of the first $25,000.00, 15 percent of the next $10,000.00 and 5 percent of the remainder of the amount recovered as actuarially determined on past and future benefits according to the life expectancies contained in the overall male or female mortality tables in the most recent available edition of the U.S. decennial life tables and the Remarriage Tables of the Dutch Royal Insurance Institute. If the most recent edition of the U.S. decennial life tables includes Kentucky tables, those tables shall be used. If it does not, the national tables shall be used. In no case shall the fee exceed $6,500.00. Provided, however, the administrative law judge, in making an allowance of attorney fees, shall in each case examine the record to ascertain the extent of the services rendered, and fix a reasonable fee for the services rendered. not to exceed the maximum authorized by this section. The administrative law judge may reduce the attorney's fee to an amount commensurate with the

services performed, or may deny or reduce an attorney's fee upon proof of solicitation of employment. Any award made to a claimant in a nonresisted claim as established under the provisions of KRS 342.316 shall result in an award of an attorney fee not exceeding $750.00.

(2) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney fee shall be submitted within thirty (30) days following finality of the last appealable order of the administrative law judge. *If the claimant prevails in a contested claim for benefits under this chapter* the *claimant's* attorney fee shall be paid *by the employer. In addition, the employer in such contested claim shall also pay any court costs involved in the adjudication of the contested claim, travel expenses, deposition costs, expenses of medical examinations, and all other expenses incurred by the claimant in the pursuance of a contested claim for income benefits under this chapter.* [~~in one of the following ways:~~

~~(a) The entire attorney's fee in a lump sum shall be paid directly to the attorney of record and the administrative law judge shall order the payment of same, commuting sufficient of the final payments of compensation payable under the award to a lump sum for that purpose; or~~

~~(b) The claimant may pay the attorney's fee out of his personal funds; or~~

~~(c) The administrative law judge, upon request of the claimant, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the claimant in equal installments over the duration of the award or until the attorney's fee has been paid.~~

~~(3) The attorney shall explain to the claimant the methods by which this section provides for the payment of the attorney's fee, and the claimant shall select the method in which his attorney's fee, is to be paid. His selection and statement that he fully understands the method to be used shall be submitted, on a notarized form signed by the claimant, by his attorney at the time the motion for approval of the attorney's fee is submitted. The board shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of attorney fees and an explanation in nontechnical language of each method.~~]

(3)[~~(4)~~] The general assembly declares that by the enactment of subsection (2)(b) of KRS 342.316, it is the legislative intent to encourage settlement and prompt administrative handling of such claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge shall give due regard to such legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(4)[~~(5)~~] The administrative law judge shall approve any contract between attorney and client if the limits on fees enumerated below are followed:

(a) When the claim is uncontested under the provisions of KRS 342.316 the attorney fee shall not exceed an amount equal to $750.00.

(b) In all other claims, the fee of the attorney shall not exceed a sum equal to twenty percent (20%) of the amount recovered, or $5000.00, whichever is less.

(6) (a) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney fee may be awarded by the administrative law judge. In awarding the attorney fee, the administrative law judge shall consider:

1. The quality of services rendered by the attorney;

2. The amount awarded for attorney fees on the original award; and

3. The extent of the services rendered.

(b) Thereafter, the administrative law judge shall fix the attorney fee. No attorney fee shall be allowed or approved against any party not represented by said attorney, nor shall any attorney fee be allowed or approved exceeding an amount equal to twenty percent (20%) of any additional amount recovered but shall not exceed three thousand two hundred and fifty dollars ($3,250). If there is no additional amount recovered in a reopened claim, there shall be no attorney fee.

The Committee Substitute to **HB 672** is as follows:

HB 672, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.310 is amended to read as follows:

If any administrative law judge, the board or any court before whom any proceedings are brought under this chapter determines that such proceedings have been brought, prosecuted, [~~or~~] defended *or unreasonably delayed* without reasonable ground, he or it *shall* [~~may~~] assess the whole cost of the proceedings which shall include actual expenses but not be limited to the following: court costs, travel expenses, deposition costs, physician expenses for attendance fees at depositions, attorney fees, and all other out-of-pocket expenses upon the party who has so brought, prosecuted or defended them.

HB 688, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and, financing the expenditures for all programs in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the Commonwealth enacted by the general assembly, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after November 1, 1987, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty percent (40%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after November 1, 1987, an additional assessment at the rate of forty percent (40%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) On October 31, 1988, and each October 31, thereafter, the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1, of each

year, unless modified by the general assembly.

(3) All assessments imposed by this section shall be paid to the Kentucky workers' compensation funding commission and shall be credited to the benefit reserve fund within the Kentucky workers' compensation funding commission.

(4) Such assessments shall be paid quarterly not later than the thirtieth (30th) day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(5) The assessments herein imposed may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. *If the insurance carrier collects the assessment from an insured, such assessment shall be collected on a quarterly basis. However, if the premium is collected from an insured in three (3) or more installments, the assessment shall also be collected from the insured in three (3) or more equal installments.* Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employes, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(9) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

Section 2. The provisions of this Act shall apply to all policies written or renewed after the effective date of this Act.

The Committee Substitute to **HB 688** is as follows:

HB 688, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.122 is amended to read as follows:

(1) (a) For the purpose of funding and pre-funding the liabilities of the special fund, financing the administration and operation of the division of special fund, financing the administration and operation of the Kentucky workers' compensation funding commission, and, financing the expenditures for all programs

in the labor cabinet except the division of employment standards and mediation and the office of labor-management relations, as reflected in the enacted budget of the Commonwealth enacted by the general assembly, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4) and there is hereby imposed on and after November 1, 1987, a special fund assessment at the rate of twenty-three and three-tenths percent (23.3%) against the premium, as defined in KRS 342.0011, of every employer carrying his own risk.

(b) In addition to the assessment imposed in paragraph (a) of this subsection, an additional special fund assessment at the rate of forty percent (40%) is hereby imposed upon the amount of workers' compensation premiums received on and after November 1, 1987, by every insurance carrier writing workers' compensation insurance in the Commonwealth and by every group of self-insurers operating under the provisions of KRS 342.350(4), from employers engaged in the severance or processing of coal. Likewise, on and after November 1, 1987, an additional assessment at the rate of forty percent (40%) of premium shall be paid by every employer engaged in the severance or processing of coal who is carrying his own risk.

(c) The assessments imposed in this chapter shall be in lieu of all other assessments or taxes on such premiums.

(2) On October 31, 1988, and each October 31, thereafter, the funding commission shall determine the amount of premiums reported and assessments imposed in subsection (1) of this section for such past period as appropriate. If the funding commission determines that the special fund assessment rate imposed to produce seventy million dollars ($70,000,000) or the additional special fund assessment rate imposed to produce forty million dollars ($40,000,000) are likely to produce more or less than seventy million dollars ($70,000,000) or forty million dollars ($40,000,000) during the next annual period, the commission shall, based upon such determination, calculate such adjustments to each rate as shall be necessary to provide seventy million dollars ($70,000,000) and forty million dollars ($40,000,000) respectively during the next annual period beginning on April 1 of each year. On or before March 1 of each year, the commission shall notify each insurance company writing workers' compensation insurance in the Commonwealth, every group of self-insurers, and each employer carrying his own risk of the adjusted rates which shall become effective on April 1, of each year, unless modified by the general assembly.

(3) All assessments imposed by this section shall be paid to the Kentucky workers' compensation funding commission and shall be credited to the benefit reserve fund within the Kentucky workers' compensation funding commission.

(4) Such assessments shall be paid quarterly not later than the thirtieth (30th) day of the month following the end of the quarter in which the premium is received. Employers carrying their own risk and employers defined in KRS 342.630(2) shall pay the annual assessments in four (4) equal quarterly installments.

(5) The assessments herein imposed may be collected by the insurance carrier from his insured, provided however, the insurance carrier shall not collect from the employer any amount exceeding the assessments imposed pursuant to this section. *If the insurance carrier collects the assessment from an insured, such assessment shall be collected at the same time and in the same proportion as the premium is collected.* Each statement from an insurance carrier presented to an insured reflecting premium and assessment amounts shall clearly identify and distinguish the amount to be paid for premium and the amount to be paid for assessments. No insurance carrier shall collect from an insured an amount in excess of the assessment percentages in effect at the time the statement of the premium is sent to the insured.

(6) The funding commission, as part of the collection and auditing of the special fund assessments required herein, shall annually require each insurance carrier and each group self-insurer to provide a list of employers which it has insured or which are members and the amount collected from each such employer. Additionally, the funding commission shall require each entity paying a special fund assessment to report the SIC code for each employer and the amount of premium collected from each SIC code. An insurance carrier or group self-insurer may require its insureds or members to furnish the SIC code for each of their employes, provided however, the failure of any employer to furnish said codes shall not relieve the insurance carrier or group self-insurer from the obligation to furnish same to the funding commission. The division of unemployment insurance is hereby directed to make available the SIC codes assigned in its records to specific employers to aid in the reporting and recording of the special fund assessment data.

(7) Each self-insured employer, group self-insurer or insurance carrier shall provide any information

and submit any reports the revenue cabinet or the funding commission may require to effectuate the provisions of this section. In addition, the funding commission may enter reciprocal agreements with other governmental agencies for the exchange of information necessary to effectuate the provisions of this section.

(8) The special fund shall be required to maintain a central claim registry of all claims to which it is named a party giving each such claim a unique claim number and thereafter recording the status of each claim on a current basis. Such registry shall be established by January 26, 1988, for all claims on which payments were made since July 1, 1986, or which were pending adjudication since July 1, 1986, by audit of all claim files in the possession of the special fund.

(9) The fund heretofore designated as the subsequent claim fund is abolished and there is substituted therefor the special fund as herein set out and all moneys and properties owned by the subsequent claim fund are transferred to the special fund.

Section 2. The provisions of this Act shall apply to all policies written or renewed after the effective date of this Act.

The Committee on Counties and Special Districts reported **HB 695** with Committee Amendment attached thereto, **HB 724** with Committee Substitute attached thereto, and **HB 835** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 695, AN ACT relating to nuisance abatement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.770 is amended to read as follows:

(1) It shall be unlawful for the owner, occupant or person having control or management of any land within a city to permit a public nuisance, health hazard or source of filth to develop thereon through the accumulation of rubbish or the excessive growth thereon of weeds or grass.

(2) It shall be unlawful for the owner, occupant or person having control or management of any land in an unincorporated area to knowingly permit a public nuisance or health hazard to develop thereon through the accumulation of rubbish.

(3) *It shall be unlawful for the owner of a property to permit any structure upon the property to become unfit and unsafe for human habitation, occupancy or use or to permit conditions to exist in the structure which are dangerous or injurious to the health or safety of the occupants of the structure, the occupants of neighboring structures or other residents of the city or county.*

(4) A local government shall establish by ordinance procedures for the enforcement of this Act. The procedures shall comply with all applicable statutes, regulations or codes. Proper notice shall be given to property owners before any action is taken pursuant to this Act. [~~Whenever such a situation is discovered, the director of sanitation or other responsible officer designated by the fiscal court or city legislative body shall give five days' written notice to remedy such situation. The said notice shall be mailed to the last known address of the owner of the said property, as it appears on the current tax assessment roll. Upon the failure of the owner of the said property to comply, the director of sanitation or other responsible officer is authorized to send employes upon the said property to remedy the situation.~~]

(5)[~~(4)~~] The county or city shall have a lien against the [~~said~~] property for the reasonable value of labor and materials used in remedying *the* [~~such~~] situation. The affidavit of the [~~director of sanitation or other~~] responsible officer shall constitute prima facie evidence of the amount of the lien and the regularity of the proceedings pursuant to this statute, and shall be recorded in the office of the county clerk. The [~~said~~] lien shall be notice to all persons from the time of its recording and shall bear interest [~~at six percent per annum~~] thereafter until paid. *The lien created shall take precedence over all other liens, except state, county, school board and city taxes, and shall not be defeated by any private or judicial sale or any mortgage.*

(6) In addition to the remedy prescribed in subsection (5) of this section or any other remedy authorized by law, the owner of a property upon which a lien has been attached pursuant to this section shall be personally liable for the amount of the lien, including all interest, civil penalties and other charges and the city or county

may bring a civil action against the owner and shall have the same remedies as provided for the recovery of a debt owed.

(7)[~~(5)~~] The provisions of subsections [~~(3) and~~] (4), *(5) and (6)* of this section shall not apply to an owner, occupant, or person having control or management of any land located in an unincorporated area if the owner, occupant or person is not the generator of *the* [~~such~~] rubbish or is not dumping or knowingly allowing the dumping of *the* [~~such~~] rubbish and has made reasonable efforts to prevent the dumping of rubbish by other persons onto *the* [~~said~~] property.

The Committee Amendment No. 1 to **HB 695** is as follows:

Amend printed copy of **HB 695** on page 1, line 9, by inserting after "area" the words "*in a county containing a city of the first class*"; and

On page 2, line 13, by inserting after "county" the words "*containing a city of the first class*".

HB 724, AN ACT relating to tax collections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.290 is amended to read as follows:

(1) In counties *of less than seventy-five thousand population,* [~~where the state taxes charged to~~] the sheriff [~~for the year are less than $75,000, he~~] shall be allowed by the revenue cabinet, for collecting *state* [~~such~~] taxes, a commission of ten percent (10%) upon the first $10,000 and *five* [~~four~~] and one-quarter percent *(5.25%)* [~~(4.25%)~~] upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than $150,000, he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first $10,000 and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four and one-quarter per cent (4.25%) upon the residue.

The Committee Substitute to **HB 724** is as follows:

HB 724, AN ACT relating to tax collections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.290 is amended to read as follows:

(1) In counties *of less than thirty-five thousand (35,000) population,* [~~where the state taxes charged to~~] the sheriff [~~for the year are less than seventy-five thousand dollars ($75,000), he~~] shall be allowed by the revenue cabinet, for collecting *state* [~~such~~] taxes, a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and *six* [~~four~~] and one-quarter percent *(6.25%)* [~~(4.25%)~~] upon the residue. *In counties of at least thirty-five thousand (35,000) but less than forty thousand (40,000) population, the sheriff shall be allowed by the revenue cabinet for collecting state taxes a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and five and one-quarter percent (5.25%) upon the residue. In counties of at least forty thousand (40,000) but less than seventy-five thousand (75,000) population, the sheriff shall be allowed by the revenue cabinet for collecting state taxes a commission of ten percent (10%) upon the first ten thousand dollars ($10,000) and four and three-quarters percent (4.75%) upon the residue.* In all other counties, he shall be allowed ten percent (10%) upon the first $5,000 and four and one-quarter percent (4.25%) upon the residue.

(2) In counties where county taxes and special district taxes, excluding school taxes, charged to the sheriff for the year are less than one hundred fifty thousand dollars ($150,000), he shall be allowed by the county treasurer for collecting such taxes ten percent (10%) upon the first ten thousand dollars ($10,000) and four and one-quarter percent (4.25%) upon the residue. In all other counties, he shall be allowed ten percent (10%) upon the first five thousand dollars ($5,000) and four and one-quarter per cent (4.25%) upon

the residue.

HB 835, AN ACT relating to places of entertainment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 231.090 is amended to read as follows:

(1) From the decision of the county judge/executive refusing to grant the permit, the applicant may appeal to the circuit court, where the appeal shall be tried as an action in equity, and the evidence shall be heard in open court.

(2) From the decision of the county judge/executive granting a permit any citizen of the county may appeal to the circuit court and the appeal in the circuit court shall be tried as in the case of an appeal from a judgment denying the permit.

(3) Before any appeal is perfected, the party appealing shall file a copy of the decision of the county judge/executive with the circuit clerk and shall execute a bond guaranteeing the payment of the cost of the appeal. The cost of the appeal shall be adjudged against the person losing the appeal.

(4) The county attorney shall resist any appeal filed by an applicant and shall represent [~~any citizen who appeals from the decision of~~] the county judge/executive granting a permit *in any court proceedings.*

Section 2. KRS 231.070, County attorney to investigate applicant, is repealed.

Calendar

HB 484, HB 740, HB 784, HB 992, HB 513, HB 584, HB 808, HB 840, HB 852, HB 907, HB 961, HB 1017, HB 85, HB 225, HB 365, HB 472, HB 473, HB 617, HB 655, HB 708, HB 764, HB 305, HB 419, HB 464, HB 510, HB 534, HB 637, HB 643, HB 750, HB 785, HB 788, HB 811, HB 833, HB 932, HB 973, SB 11, SB 23, SB 24, SB 29, SB 163, SB 174, SB 180, HB 13, HB 32, HB 49, HB 620, SB 14, HB 725, HB 806, HB 908, HB 955, HB 956, HB 356, HB 574, HB 660, HB 816, HB 883, HB 944, HJR 94, HCR 124, HCR 125, HJR 132, SB 88, SB 184, HB 217, HB 310, HB 500, HB 673, HB 875, HB 929, HB 930, HB 594 and **HB 810** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 701, HB 712, HB 735 and **HB 993** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 667, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Committee Amendment No. 1 to **HB 667**. Agreed.

Representative Meyer moved that **HB 667**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 2. (See March 11, 1988 roll call on **HB 667** - Appendix A.)

HB 667, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 667**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 668, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Committee Amendment No. 1 to **HB 668**. Agreed.

Representative Meyer moved that **HB 668**, as amended, be passed.

On the roll call the vote was: Yeas 87, Nays 5. (See March 11, 1988 roll call on **HB 668** - Appendix A.)

HB 668, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 668**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 674 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 674** be passed.

On the roll call the vote was: Yeas 88, Nays 2. (See March 11, 1988 roll call on **HB 674** - Appendix A.)

HB 674 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 674** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 520, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of the Committee Substitute to **HB 520**. Agreed.

Representative Lear moved the adoption of the Committee Amendment No. 1 to the Committee Substitute to **HB 520**. Agreed.

Representative Lear moved that **HB 520**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 78, Nays 11. (See March 11, 1988 roll call on **HB 520** - Appendix A.)

HB 520, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 520**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 50**, **HB 461**, **HB 537**, **HB 538**, **HB 569**, **HB 642**, **HJR 28** and **HB 448** had been examined and found correctly enrolled. Said Bills and Resolutions read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:20 a.m.)

HB 50, HB 461, HB 537, HB 538, HB 569, HB 642, HJR 28 and **HB 448** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 769, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Amendment No. 1 to **HB 769**. Agreed.

Representative Morris moved that **HB 769**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 9. (See March 11, 1988 roll call on **HB 769** - Appendix A.)

HB 769, as amended, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 769**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 20, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Amendment No. 1 to **HB 20**. Agreed.

Representative Long moved that **HB 20**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 11, 1988 roll call on **HB 20** - Appendix A.)

HB 20, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 20**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 521, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 521** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 11, 1988 roll call on **HB 521** - Appendix A.)

HB 521 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 521** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 514, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ackerson moved the adoption of the Committee Substitute to **HB 514**. Agreed.

Representative Ackerson moved that **HB 514**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 42, Nays 44. (See March 11, 1988 roll call on **HB 514** - Appendix A.)

HB 514, by way Committee Substitute, was defeated.

Representative Stumbo moved that the vote by which **HB 514**, by way of Committee Substitute, was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 733, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of Floor Amendment No. 1 to **HB 733**. Agreed.

Representative O'Brien moved that **HB 733**, as amended, be passed.

On the roll call the vote was: Yeas 85, Nays 7. (See March 11, 1988 roll call on **HB 733** - Appendix A.)

HB 733, as amended, was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 733**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 536 with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Substitute to **HB 536**. Agreed.

Representative Noe moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 536**. Agreed.

Representative Noe moved that **HB 536**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 11, 1988 roll call on **HB 536** - Appendix A.)

HB 536, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 536**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Guenthner moved that the rules be suspended to consider Amendments that were improperly filed to **HB 1**.

On the roll call the vote was yeas 29-Ackerson, Allen, Ballard, J. Brown, Casebier, Clarke, Ford, Freibert, Gregory, Guenthner, J. Harper, K. Harper, Heleringer, Jackson, Johnson, Lefevers, Lile, Mason, Napier, Noland, Reinhardt, Riner, Robinson, B. Smith, Strong, Todd, Walker, White, Will. Nays 52-Adkins, Altman, Ark, Blandford, Blevins, Bronger, M. Brown, Burch, Callahan, Castleman, L. Clark, Crupper, Curd, Cyrus, Deskins, Donnermeyer, Farrow, Geveden, Gray, Handy, Hatcher, Hoover, Hourigan, A. Jones, T. Jones, Kerr, Layman, Lear, LeMaster, Long, Lundergan, Lyne, Maggard, McBee, McElroy, Meyer, Moberly, Morris, Noe, Northup, Overstreet, Preston, Priddy, Rapier, Richards, Scorsone, Seum, Siler, R. Smith, Stumbo, Worthington, Yates.

The motion that the rules be suspended to consider Amendments that were improperly filed to **HB 1** was rejected.

Representative Johnson moved the adoption of Floor Amendment No. 3 to **HB 1**.

On the roll call the vote was yeas 37-Ackerson, Allen, Barrows, J. Brown, Casebier, Castleman, P. Clark, Cline, Ford, Gedling, Gregory, Guenthner, J. Harper, Heleringer, Hoover, Johnson, Keith, Kerr, Lefevers, Lile, Lyne, Mason, Napier, Noland, Northup, Pritchett, Reinhardt, Richards, B. Richardson, Riner, Robinson, Siler, B. Smith, Todd, Turner, White, Will. Nays 48-Altman, Ark, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Callahan, L. Clark, Clarke, Deskins, Donnermeyer, Farrow, Freibert, Geveden, Gray, Hancock, Handy, K. Harper, Hatcher, Hourigan, A. Jones, T. Jones, Layman, Lear, LeMaster, Long, Lundergan, Mack, Maggard, McBee, McElroy, Meyer, Moberly, Noe, O'Brien, Overstreet, Preston, Rapier, Scorsone, Seum, R. Smith, Strong, Stumbo, Walker, Worthington, Yates.

Floor Amendment No. 3 to **HB 1** was rejected.

Representative Johnson moved the adoption of Floor Amendment No. 2 to **HB 1**.

On the roll call the vote was yeas 37-Ackerson, Arnold, J. Brown, Casebier, P. Clark, Cline, Crupper, Ford, Freibert, Gedling, Gregory, J. Harper, Hatcher, Hoover, Jackson, Johnson, T. Jones, Keith, Kerr, Lile, Lyne, Mason, Moberly, Napier Pritchett, Reinhardt, Richards, B. Richardson, Riner, Robinson, Siler, B. Smith, Todd, Turner, Walker, White. Nays 46-Adkins, Ark, Blandford, Blevins, Bronger, M. Brown, Burch, Callahan, Castleman, L. Clark, Clarke, Cyrus, Deskins, Donnermeyer, Farrow, Geveden, Gray, Guenthner, Hancock, Handy, K. Harper, Heleringer, Hourigan, A. Jones, Layman, Lear, LeMaster, Long, Lundergan, Mack, Maggard, McBee, McElroy, Meyer, Nett, Northup, Overstreet, Preston, Rapier, Scorsone, Seum, R. Smith, Strong, Stumbo, Will, Yates.

Floor Amendment No. 2 to **HB 1** was rejected.

Representative Johnson moved the adoption of Floor Amendment No. 1 to **HB 1**. Rejected.

Representative Donnermeyer moved that **HB 1** be passed.

On the roll call the vote was: Yeas 63, Nays 35. (See March 11, 1988 roll call on **HB 1** - Appendix A.)

HB 1 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 1** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 635 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Jones moved that **HB 635** be passed.

On the roll call the vote was: Yeas 6, Nays 86. (See March 11, 1988 roll call on **HB 635** - Appendix A.)

HB 635 was defeated.

Representative B. Jones moved that the vote by which **HB 635** was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 793 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Smith moved that **HB 793** be passed.

On the roll call the vote was: Yeas 50, Nays 28. (See March 11, 1988 roll call on **HB 793** - Appendix A.)

HB 793 was passed and the title agreed to.

Representative R. Smith moved that the vote by which **HB 793** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 555 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 555** be passed.

On the roll call the vote was: Yeas 89, Nays 3. (See March 11, 1988 roll call on **HB 555** - Appendix A.)

HB 555 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 555** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 70, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Floor Amendment No. 1 to **HJR 70**. Agreed.

Representative Blevins moved that **HJR 70**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 11, 1988 roll call on **HJR 70** - Appendix A.)

HJR 70, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HJR 70**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 765 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Curd moved that **HB 765** be passed.

On the roll call the vote was: Yeas 86, Nays 5. (See March 11, 1988 roll call on **HB 765** - Appendix A.)

HB 765 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 765** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 597 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 597** be passed.

On the roll call the vote was: Yeas 94, Nays 1. (See March 11, 1988 roll call on **HB 597** - Appendix A.)

HB 597 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 597** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 517** be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 11, 1988 roll call on **HB 517** - Appendix A.)

HB 517 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 517** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 609 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 609** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 11, 1988 roll call on **HB 609** - Appendix A.)

HB 609 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 609** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 703, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved the adoption of Committee Substitute to **HB 703**. Agreed.

Representative Hatcher moved that **HB 703**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 1. (See March 11, 1988 roll call on **HB 703** - Appendix A.)

HB 703, by way of Committee Substitute, was passed and the title agreed to.

Representative Hatcher moved that the vote by which **HB 703**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 455, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved the adoption of Committee Amendment No. 1 to **HB 455**. Agreed.

Representative T. Jones moved that **HB 455**, as amended, be passed.

On the roll call the vote was: Yeas 100, Nays 0. (See March 11, 1988 roll call on **HB 455** - Appendix A.)

HB 455, as amended, was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 455**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 870 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved that **HB 870** be passed.

On the roll call the vote was: Yeas 83, Nays 7. (See March 11, 1988 roll call on **HB 870** - Appendix A.)

HB 870 was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 870** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 591, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved the adoption of Committee Substitute to **HB 591**. Agreed.

Representative Hancock moved that **HB 591**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 54, Nays 32. (See March 11, 1988 roll call on **HB 591** - Appendix A.)

HB 591, by way of Committee Substitute, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 591**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 762 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 762** be passed.

On the roll call the vote was: Yeas 77, Nays 18. (See March 11, 1988 roll call on **HB 762** - Appendix A.)

HB 762 was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 762** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 159, by Representative Riner: A RESOLUTION adjourning the House of Representatives in honor of Barry Bingham, Sr., with hope for his speedy recovery.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Judiciary-Civil: **HB 718**.

Banking and Insurance: **HB 618**.

Natural Resources and Environment: **HB 683, HJR 122**.

Appropriations and Revenue: **HB 860, HB 861, HB 921, HB 923, SB 202**.

State Government: **SB 192, SB 157, SB 145**.

Counties and Special Districts: **HB 900, HB 843, SB 224, SB 249, SB 271, SCR 53**.

Transportation: **SB 48**.

Report of Committees

The Committee on Rules reported **HB 665, HB 217, HB 708, HB 833, HB 929, HB 932, HB 973** and **HB 655** have been posted for passage in Orders of the Day, March 14, 1988.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day March 14, 1988: **HB 701**.

Report of Committees

The Committee on Health and Welfare reported **HB 381** with Committee Substitute attached thereto, **HB 382** with Committee Substitute and Committee Amendment attached thereto, **HB 383** with Committee Substitute attached thereto, **HB 384** with Committee Substitute and Committee Amendment attached thereto, **HB 561** with Committee Substitute attached thereto, **HB 621** with Committee Substitute attached thereto, **HB 704** with Committee Amendment attached thereto, **HB 730**, **HB 829**, **HB 868** with Committee Substitute and Committee Amendment attached thereto, and **HB 968** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 381, AN ACT relating to the aid to families with dependent children program minimum subsistence needs level and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby appropriated out of the general fund $5,631,200 for fiscal year 1988-89 and $9,838,600 for fiscal year 1989-90 to the cabinet for human resources to annually increase the aid to families with dependent children (AFDC) benefit level by five percent (5%) plus inflation until the total benefit payment equals the AFDC minimum subsistence needs level. For purposes of this Act, the term "AFDC minimum subsistence needs level" means the poverty income level by size of family unit, as annually issued by the U.S. department of health and human services, minus the combined value of the state's average medicaid utilization for a given family size plus the value of U.S. food stamps for a given family size.

The Committee Substitute to **HB 381** is as follows:

HB 381, AN ACT relating to the aid to families with dependent children program minimum subsistence needs level and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. There is hereby appropriated out of the general fund $3,080,400 for fiscal year 1988-89 and $5,176,300 for fiscal year 1989-90 to the cabinet for human resources to annually increase the aid to families with dependent children (AFDC) benefit level by five percent (5%).

HB 382, AN ACT relating to the aid to families with dependent children program and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

For purposes of eligibility for aid to families with dependent children, "aid to families with dependent children standard of need" means the poverty income level by size of family unit, as annually issued by the U.S. department of health and human services, minus the combined value of the state's average medicaid utilization for a given family size plus the value of U.S. food stamps for a given family size.

Section 2. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the social security act, its amendments and other federal acts and regulations. *The secretary shall also promulgate regulations to allow for a forty percent (40%) ratable reduction in the method of calculating income for eligibility for aid to families with dependent children. In no instance shall grants to families with no income be less than the amount the grant would be without ratable reduction. As used in this section, "ratable reduction" means the percentage reduction applied to the aid to families with dependent children need standard when payment of the full need standard is precluded by maximums or insufficient funds as set forth in 45 CFR 233.20 (1985).*

(3) The secretary may by regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal

action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

Section 3. There is hereby appropriated out of the General Fund $646,000 for fiscal year 1988-89 and $1,398,200 for fiscal year 1989-90 to the cabinet for human resources to raise the aid to families with dependent children standard of need as defined under Section 1 of this Act. There is also appropriated out of the General Fund $2,931,200 for fiscal year 1988-89 and $2,931,200 for fiscal year 1989-90 to the cabinet for human resources to allow a 40% ratable reduction in the method of calculating income for aid to families with dependent children as provided in Section 2 of this Act.

The Committee Substitute to **HB 382** is as follows:

HB 382, AN ACT relating to the aid to families with dependent children program and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

For purposes of eligibility for aid to families with dependent children, "aid to families with dependent children standard of need" means the poverty income level by size of family unit, as annually issued by the U.S. department of health and human services, minus the combined value of the state's average medicaid utilization for a given family size plus the value of U.S. food stamps for a given family size.

Section 2. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the social security act, its amendments and other federal acts and regulations. *The secretary shall also promulgate regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for aid to families with dependent children. In no instance shall grants to families with no income be less than the appropriate aid to families with dependent children grant maximum. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.*

(3) The secretary may by regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by regulation standards of suitability for training and employment.

Section 3. The secretary of human resources is directed to implement Sections 1 and 2 of this Act at the earliest possible date but no later than October 1, 1989.

The Committee Title Amendment to **HB 382** is as follows:

Amend printed copy of **HB 382** by amending the title to read as follows:

"AN ACT relating to the aid to families with dependent children program."

HB 383, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the department for employment services a special staff unit for the purpose of providing case management to recipients of aid to families with dependent children. Such case management shall include the following activities:

(a) Developing an individual plan for each adult recipient of aid to families with dependent children designed to move the recipient into unsubsidized employment. In developing the plans, each adult recipient of aid to families with dependent children shall be assessed to determine the skills and needs of the recipient to obtain employment. The assessment shall include the recipient's work history, education history and present competency level, need for supportive services, personal employment goals and an evaluation of the chances for achievement of the employment goals of the recipient considering the recipient's potential skills and labor market conditions. After the assessment is completed, the cabinet shall develop an individual employment plan which takes into consideration realistic employment goals based on the recipient's assessment;

(b) Assisting recipients in locating and accessing services and programs necessary to obtain employment goals contained in plans developed pursuant to paragraph (a) of this subsection; and

(c) Monitoring each recipient of aid to families with dependent children for which an employment plan is developed to determine the recipient's progress in meeting employment goals. Periodic reports shall be compiled which specify changes in employment plans and problems in attaining employment goals, including lack of necessary services, recipient's level of cooperation or any other impediments. Recipients shall receive consultation from the cabinet when reports indicate difficulty in attaining employment goals.

(2) The department for social insurance shall be responsible for referring recipients of aid to families with dependent children to the special unit created in subsection (1) of the section.

(3) The cabinet for human resources shall operate pilot programs, in geographic areas to be determined by the cabinet, to demonstrate the effectiveness of employment plans designed to move recipients of aid to families with dependent children into unsubsidized employment as required by this Act.

The Committee Substitute to **HB 383** is as follows:

HB 383, AN ACT relating to public assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall take all necessary actions to ensure that at least five percent (5%) of all adults receiving aid to families with dependent children benefits as of the effective date of this Act, shall, by July 1, 1989, be enrolled and participating in college, or a vocational training program, or a GED program, or employed and working not less than thirty (30) hours per week. For each year after July 1, 1989, the cabinet shall move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment until the total number of adult recipients employed or in training or education programs reaches twenty percent (20%) of total recipients. In meeting this goal, the cabinet shall not count any adult recipient leaving the aid to families with dependent children program for reasons other than entering an education or training program or receiving a job.

(2) The cabinet shall file an annual report to the legislative research commission and the interim joint committee on health and welfare documenting the results of the cabinet's efforts to move aid to families with dependent children recipients into training or education programs and employment, and meeting the goals set forth in subsection (1) of this section.

(3) If the cabinet fails to meet the goal of moving five percent (5%) of current aid to families with dependent children recipients into education or training programs or employment, and one percent (1%) for each year thereafter, the general fund share of the cabinet's cost of administering the aid to families with dependent children program shall be reduced by a percentage or portion thereof equal to the percentage by which the cabinet fails to meet the goals set forth in subsection (1) of this section.

HB 384, AN ACT relating to public assistance and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the social security act, its amendments and other federal acts and regulations.

(3) The secretary may by regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for

such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by regulation standards of suitability for training and employment.

(8) To the extent permitted by federal law, scholarships, grants or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.

(9) The cabinet shall include a special needs allowance to recipients of aid to families with dependent children for costs associated with education and training, including but not limited to training expenses, job placement costs, transportation to and from training or educational programs and other expenses necessary for participation in education and training programs. The cabinet shall promulgate administrative regulations setting forth the special needs which will be recognized and the circumstances under which they will be included, the amount of special need allowances and the length of time recipients may receive such allowances such regulations shall provide that work expenses and child care costs resulting from employment in an employment search program or a community work experience program shall not be special needs.

Section 2. To carry out the purposes of this Act, there is appropriated to the Cabinet for Human Resources out of the General Fund in the state treasury the sum of $1,155,000 for the 1988-89 fiscal year and the sum of $1,155,000 for the 1989-90 fiscal year.

The Committee Substitute to **HB 384** is as follows:

HB 384, AN ACT relating to public assistance and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the social security act, its amendments and other federal acts and regulations.

(3) The secretary may by regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may by regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by regulation standards of suitability for training and employment.

(8) To the extent permitted by federal law, scholarships, grants or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.

(9) The cabinet shall include a special needs allowance to recipients of aid to families with dependent children for costs associated with education and training, limited to transportation to and from training or educational programs and child care costs necessary for participation in education and training programs. The cabinet shall promulgate administrative regulations setting forth the special needs which will be recognized and the circumstances under which they will be included, the amount of special needs allowances and the length of time recipients may receive such allowances. Such regulations shall provide that work expenses and child care costs resulting from employment in an employment search program or a community work experience program shall not be special needs.

The Committee Title Amendment to **HB 384** is as follows:

Amend printed copy of **HB 384** by amending the title to read as follows:

"AN ACT relating to public assistance."

HB 561, AN ACT relating to adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 and 205.465:

(1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.

(2) "Core services" means those services, including but not limited to client assessment and case management *services*, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.

(3) "Cabinet" means the cabinet for human resources.

(4) "District" means an area development district designated as such pursuant to KRS 147A.050.

(5) *"Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.*

(6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall *include* [~~be limited to~~] chore services, [~~core services,~~] home delivered meals, home health aide *services,* [~~and~~] homemaker services, *respite services, escort services, and home repair services.*

(7)[~~(6)~~] "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.

(8)[~~(7)~~] "Home delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is home bound by reason of illness, incapacity or disability.

(9)[~~(8)~~] "Home health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(10)[~~(9)~~] "Homemaker services" means general household activities, including but not limited to *non-medical personal care,* shopping, meal preparation and routine household care, provided by a trained homemaker when the person regularly responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.

(11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.

(12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

Section 2. KRS 205.460 is amended to read as follows:

(1) The cabinet shall fund, directly or through a contracting entity or entities, in each district, a program of essential services which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons. The cabinet may use funds appropriated under this section to contract with public and private agencies, long term care facilities, local governments, and other providers to provide *core and* essential services. The cabinet may provide *core and* essential services when such services cannot otherwise be purchased.

(2) In providing essential services, all existing community resources available to functionally impaired elderly persons shall be utilized. Additional services may be provided, but shall not be funded from funds appropriated under this section. Volunteers may be used where practicable to provide essential services to functionally impaired elderly persons. The cabinet or contracting entity shall provide or arrange for the provision of training and supervision of volunteers to ensure the delivery of quality services. The cabinet or contracting entity shall provide or arrange for appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer duties.

(3) Entities contracting with the cabinet to provide essential services under KRS 205.455 and this section shall provide a minimum of *fifteen* [~~twenty-five~~] percent *(15%)*[~~(25%)~~] of the funding necessary for the support of program operations. *No local match is required for assessment and case management.* Local contributions, whether materials, commodities, transportation, office space, personal services, or other types of facilities services, or funds may be evaluated and counted toward the *fifteen* [~~twenty-five~~] percent *(15%)* [~~(25%)~~] local funding requirements.

(4) When possible, funding for core services may be obtained under:

(a) The comprehensive annual social services program plan under Title XX of the Social Security Act;

(b) The medical assistance plan under Titles XVIII and XIX of the Social Security Act;

(c) The state plan on aging under the Older Americans Act; or

(d) Veteran's benefit programs under the provisions of 38 USCA Sections 1 et seq. as amended.

The cabinet may seek federal waivers if necessary to enable the use of funds provided through Titles XVIII and XIX of the Social Security Act for the provision of essential services.

(5) Providers contracting with the cabinet to provide essential services shall be responsible for the collection of fees and contributions for services in accordance with rules promulgated by the cabinet. Providers are authorized to assess and collect fees for services rendered in accordance with those regulations. To help pay for essential services received, a functionally impaired elderly person shall pay an amount of money based on an overall ability to pay in accordance with a schedule of fees established by the cabinet. Fees shall reflect the degree to which the cabinet or contracting entity uses volunteers in the provision of services. Where essential services are provided by volunteers, fees shall only be assessed in an amount that will cover the cost of materials and other goods used in the provision of services. The cost of materials and other goods used by volunteers shall be reasonably similar to the cost of goods when paid personnel are used. Fees shall not be required of any person who is "needy aged" as defined in KRS 205.010, however, voluntary contributions may be encouraged. This subsection shall not apply to programs utilizing federal funds when regulations require contributions to revert to the original funding source.

Section 3. KRS 209.020 is amended to read as follows:

As used in this chapter unless the context otherwise requires:

(1) "Secretary" means the secretary of the cabinet for human resources;

(2) "Cabinet" means the cabinet for human resources;

(3) "Department" means the department for social services of the cabinet for human resources;

(4) "Adult" means*:*

(a) A person eighteen (18) years of age or older, who because of mental or physical dysfunctioning, is unable to manage his own resources or carry out activities of daily living or protect himself from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services; or

(b) A person without regard to age, who is the victim of abuse inflicted by a spouse, former spouse, or cohabitating partner, such as a person living with another in an intimate and marriage-like arrangement and sharing a common residence on an ongoing basis, and is unable to protect himself from hazardous or abusive situations without assistance from others and may be in need of protective services [~~a person eighteen (18) years of age or older or a married person without regard to age, who because of mental or physical dysfunctioning, or who is the victim of abuse or neglect inflicted by a spouse, is unable to manage his own resources, carry out the activities of daily living, or protect himself from neglect, hazardous or abusive situations without assistance from others and may be in need of protective services~~];

(5) "Protective services" means agency services undertaken with or on behalf of an adult in need of protective services who is being abused, neglected, or exploited. These services may include, but are not limited to conducting investigations of complaints of possible abuse, neglect, or exploitation to ascertain whether or not the situation and condition of the adult in need of protective services warrants further action; social services aimed at preventing and remedying abuse, neglect, and exploitation; and services directed toward seeking legal determination of whether or not the adult in need of protective services has been abused, neglected or exploited and to ensure that he obtains suitable care in or out of his home;

(6) "Caretaker" means an individual or institution who has the responsibility for the care of the adult as a result of family relationship, or who has assumed the responsibility for the care of the adult person

voluntarily, or by contract, or agreement;

(7) *"Abuse" means the infliction of physical pain, injury, or mental injury of an adult as defined in KRS 209.020(4)* [~~Abuse or neglect" means the infliction of physical pain, injury, or mental injury, or the deprivation of services by a caretaker which are necessary to maintain the health and welfare of an adult, or a situation in which an adult, living alone, is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare or a situation in which a person inflicts physical pain or injury upon a spouse or deprives a spouse of reasonable services necessary to maintain the health and welfare of his spouse~~];

(8) *"Neglect" means the deprivation by a caretaker of services which are necessary to maintain the health and welfare of an adult or a situation in which an adult is unable to provide or obtain for himself the services which are necessary to maintain his health or welfare;*

(9) "Exploitation" means the improper use of an adult or an adult's resources by a caretaker or other person for the profit or advantage of the caretaker or other person;

(10)[~~(9)~~] "Investigation" shall include, but is not limited to, a personal interview with the individual reported to be abused, neglected, or exploited. When abuse, or neglect is allegedly the cause of death, a coroner's or doctor's report shall be examined as part of the investigation;

(11)[~~(10)~~] "Emergency" means that an adult is living in conditions which present a substantial risk of death or immediate and serious physical harm to himself or others;

(12)[~~(11)~~] "Emergency protective services" are protective services furnished an adult in an emergency;

(13)[~~(12)~~] "Protective placement" means the transfer of an adult from his present living arrangement to another; and

(14)[~~(13)~~] "Court" means the circuit court or the district court if no judge of that circuit court is present in the county.

Section 4. KRS 209.030 is amended to read as follows:

(1) The secretary may, within his discretion, adopt such rules, regulations, procedures, guidelines, or any other expressions of policy necessary to effect the purpose of this chapter insofar as such action is reasonably calculated to serve the public interest. The secretary may take necessary action and may offer or cause to be offered protective services toward safeguarding the welfare of an adult who has experienced abuse or neglect, inflicted or caused by a spouse.

(2) Any person, including, but not limited to, physician, law enforcement officer, nurse, social worker, department personnel, coroner, medical examiner, alternate care facility employe, or caretaker, having reasonable cause to suspect that an adult has suffered abuse, neglect, or exploitation, shall report or cause reports to be made in accordance with the provisions of this chapter. Death of the adult does not relieve one of the responsibility for reporting the circumstances surrounding the death.

(3) An oral or written report shall be made immediately to the department upon knowledge of the occurrence of suspected abuse, neglect, or exploitation of an adult. Any person making such a report shall provide the following information, if known: The name and address of the adult, or of any other person responsible for his care; the age of the adult; the nature and extent of the abuse, neglect, or exploitation, including any evidence of previous abuse, neglect, or exploitation; the identity of the perpetrator, if known; the identity of the complainant, if possible; and any other information that the person believes might be helpful in establishing the cause of abuse, neglect, or exploitation.

(4) Upon receipt of the report, the department shall take the following action as soon as practical:

(a) Notify the appropriate law enforcement agency;

(b) Initiate an investigation of the complaint; and

(c) Make a written report of the initial findings together with a recommendation for further action, if indicated.

(5) Any representative of the department may enter any health facility or health service licensed by the department at any reasonable time to carry out the department's responsibilities under this chapter. Any representative of the department actively involved in the conduct of an abuse, neglect, or exploitation investigation under this chapter shall also be allowed access to the *medical, psychological and financial* [~~mental and physical health~~] records of the adult which are in the possession of any individual, hospital, *firm, corporation* or other facility if necessary to complete the investigation mandated by this chapter.

(6) Any representative of the department may with consent of the adult or caretaker enter any private premises where any adult alleged to be abused, neglected, or exploited is found in order to investigate the need for protective services for the purpose of carrying out the provisions of this chapter. If the adult or caretaker does not consent to the investigation, a search warrant may issue upon a showing of probable cause that an adult is being abused, neglected, or exploited, to enable a representative of the department to proceed with the investigation.

(7) If a determination has been made that protective services are necessary when indicated by the investigation, the department shall provide such services within budgetary limitations, except in such cases where an adult chooses to refuse such services.

(8) In the event the adult elects to accept the protective services to be provided by the department, the caretaker shall not interfere with the department when rendering such services.

Section 5. KRS 209.140 is amended to read as follows:

All information obtained by the bureau staff or its delegated representative, as a result of an investigation made pursuant to this chapter, shall not be divulged to anyone except:

(1) Persons suspected of abuse or neglect or exploitation, provided that in such cases names of informants may be withheld, unless ordered by the court;

(2) Persons within the bureau or department with a legitimate interest or responsibility related to the case;

(3) Other medical, psychological, or social service, *correctional* [~~agencies~~], or law enforcement agencies that have a legitimate interest in the case;

(4) Cases where a court orders release of such information; and

(5) The alleged abused or neglected or exploited person.

Section 6. KRS 216.510 is amended to read as follows:

As used in KRS 216.515 to 216.530: (1) "Long-term care facilities" means those health care facilities in the Commonwealth which are defined by the Kentucky health facilities and health services certificate of need and licensure board to be family care homes, personal care homes, intermediate care facilities, skilled nursing facilities, nursing homes, and intermediate care facilities for the mentally retarded and developmentally disabled.

(2) "Resident" means any person who is admitted to a long-term care facility as defined in KRS 216.515 to 216.530 for the purpose of receiving personal care and assistance.

(3) "Cabinet" means the cabinet for human resources.

(4) "Responsible party" means the person who is notified in time of need or emergency, and who carries no financial obligation or legal responsibility.

Section 7. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and *the responsible party* [~~his responsible family member~~] or his guardian shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of *the responsible party* [~~his responsible family member~~] or his guardian of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and *the responsible party* [~~his responsible family member~~] or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of *the responsible party* [~~his responsible family member~~] or his guardian of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and *the responsible party* [~~his responsible family member~~] or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of *the responsible party* [~~his responsible family member~~], or his guardian prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident [~~and his responsible family member~~] or his guardian *is* [~~are~~] responsible for paying. The resident and *the responsible party* [~~his responsible family member~~] or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and *the responsible party* [~~his responsible family member~~] or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident [~~and his responsible family member~~] or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and *the responsible party* [~~his responsible family member~~] or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible *party* [~~family member~~], or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and *the responsible party* [~~his responsible family member~~] or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and *the responsible party* [~~his responsible family member~~] or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible *party* [~~family member~~] or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the cabinet for human resources.

(24) Each resident and *the responsible party* [~~his responsible family member~~] or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Section 8. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term care facility shall develop and implement a mechanism which will allow each resident and *the responsible party* [~~his responsible family member~~] or his guardian to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and *the responsible party* [~~his responsible family member~~] or his guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the cabinet.

(4) Every long-term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in KRS 216.515 to 216.525.

(5) All long-term care facilities shall maintain in their facilities one copy of the most recent inspection report as prepared by the cabinet for human resources. The cabinet shall provide all long-term care facilities with one copy of the most recent inspection report.

The Committee Substitute to **HB 561** is as follows:

HB 561, AN ACT relating to adults.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 205.455 is amended to read as follows:

As used in KRS 205.460 and 205.465:

(1) "Chore services" means the performance of heavy housecleaning, minor household repairs, yard tasks, and other activities needed to assist in the maintenance of a functionally impaired elderly person in his own home.

(2) "Core services" means those services, including but not limited to client assessment and case management *services*, designed to identify a functionally impaired elderly person's needs, develop a plan of care, arrange for services, monitor the provision of services, and reassess the person's needs on a regular basis.

(3) "Cabinet" means the cabinet for human resources.

(4) "District" means an area development district designated as such pursuant to KRS 147A.050.

(5) *"Escort services" means the accompaniment of a person who requires such assistance for reasons of safety or protection to or from his physician, dentist, or other necessary services.*

(6) "Essential services" means those services which are most needed to prevent unnecessary institutionalization of functionally impaired elderly persons. Essential services shall *include* [~~be limited to~~] chore services, [~~core services,~~] home delivered meals, home health aide *services,* [~~and~~] homemaker services, *respite services, escort services, and home repair services.*

(7)[~~(6)~~] "Functionally impaired elderly person" means any person, sixty (60) years of age or older, with physical or mental limitations which restrict individual ability to perform the normal activities of daily living and which impede individual capacity to live independently, thus rendering such person at risk of entering an institution. Functional impairment shall be determined through a functional assessment developed by the cabinet and delivered to each applicant for essential services.

(8)[~~(7)~~] "Home delivered meals" means the provision of a nutritionally sound meal, that meets at least one-third (1/3) of the current daily recommended dietary allowance, to a functionally impaired elderly person who is home bound by reason of illness, incapacity or disability.

(9)[~~(8)~~] "Home health aide services" means the performance of simple procedures, including but not limited to personal care, ambulation, exercises, household services essential to health care at home, assistance with medications that are ordinarily self-administered, reporting changes in the patient's condition and needs, and completing appropriate records.

(10)[~~(9)~~] "Homemaker services" means general household activities, including but not limited to *non-medical personal care,* shopping, meal preparation and routine household care, provided by a trained homemaker when the person regularly responsible for these activities is temporarily absent or unable to manage the home and care for himself or others in the home.

(11) "Home repair services" means the provision of minor home adaptations, additions, or modifications to enable the elderly to live independently or safely or to facilitate mobility including, where appropriate, emergency summons systems.

(12) "Respite services" means care provided by an approved caregiver or agency for a designated time period because of absence or need for relief of a primary caregiver.

Section 2. KRS 205.460 is amended to read as follows:

(1) The cabinet shall fund, directly or through a contracting entity or entities, in each district, a program of essential services which shall have as its primary purpose the prevention of unnecessary institutionalization of functionally impaired elderly persons. The cabinet may use funds appropriated under this section to contract with public and private agencies, long term care facilities, local governments, and other providers to provide *core and* essential services. The cabinet may provide *core and* essential services when such services cannot otherwise be purchased.

(2) In providing essential services, all existing community resources available to functionally impaired elderly persons shall be utilized. Additional services may be provided, but shall not be funded from funds appropriated under this section. Volunteers may be used where practicable to provide essential services to functionally impaired elderly persons. The cabinet or contracting entity shall provide or arrange for the provision of training and supervision of volunteers to ensure the delivery of quality services. The cabinet or contracting entity shall provide or arrange for appropriate insurance coverage to protect volunteers from personal liability while acting within the scope of their volunteer duties.

(3) Entities contracting with the cabinet to provide essential services under KRS 205.455 and this section shall provide a minimum of *fifteen* [~~twenty-five~~] percent *(15%)*[~~(25%)~~] of the funding necessary for the support of program operations. *No local match is required for assessment and case management.* Local contributions, whether materials, commodities, transportation, office space, personal services, or other types of facilities services, or funds may be evaluated and counted toward the *fifteen* [~~twenty-five~~] percent *(15%)* [~~(25%)~~] local funding requirements.

(4) When possible, funding for core services may be obtained under:

(a) The comprehensive annual social services program plan under Title XX of the Social Security Act;

(b) The medical assistance plan under Titles XVIII and XIX of the Social Security Act;

(c) The state plan on aging under the Older Americans Act; or

(d) Veteran's benefit programs under the provisions of 38 USCA Sections 1 et seq. as amended.

The cabinet may seek federal waivers if necessary to enable the use of funds provided through Titles XVIII and XIX of the Social Security Act for the provision of essential services.

(5) Providers contracting with the cabinet to provide essential services shall be responsible for the collection

of fees and contributions for services in accordance with rules promulgated by the cabinet. Providers are authorized to assess and collect fees for services rendered in accordance with those regulations. To help pay for essential services received, a functionally impaired elderly person shall pay an amount of money based on an overall ability to pay in accordance with a schedule of fees established by the cabinet. Fees shall reflect the degree to which the cabinet or contracting entity uses volunteers in the provision of services. Where essential services are provided by volunteers, fees shall only be assessed in an amount that will cover the cost of materials and other goods used in the provision of services. The cost of materials and other goods used by volunteers shall be reasonably similar to the cost of goods when paid personnel are used. Fees shall not be required of any person who is "needy aged" as defined in KRS 205.010, however, voluntary contributions may be encouraged. This subsection shall not apply to programs utilizing federal funds when regulations require contributions to revert to the original funding source.

Section 3. KRS 205.204 is amended to read as follows:

(1) The cabinet for human resources, unless otherwise directed by an Executive Order of the Governor, is designated the agency of this state for the purpose of administering the Older American Act of 1965, Public Law 89-73, including all amendments thereto.

(2) The secretary for human resources is authorized to promulgate such administrative regulations as are necessary to comply with any requirement imposed or required by federal law.

Section 4. KRS 216.515 is amended to read as follows:

Every resident in a long-term care facility shall have at least the following rights:

(1) Before admission to a long-term care facility, the resident and *the responsible party or* his responsible family member or his guardian shall be fully informed in writing as evidenced by the resident's written acknowledgment and that of *the responsible party or* his responsible family member or his guardian of all services available at the long-term care facility. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(2) Before admission to a long-term care facility, the resident and *the responsible party or* his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of *the responsible party or* his responsible family member or his guardian of all resident's responsibilities and rights as defined in this section and KRS 216.520 to 216.530. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(3) The resident and *the responsible party or* his responsible family member or his guardian shall be fully informed in writing, as evidenced by the resident's written acknowledgment and that of *the responsible party or* his responsible family member, or his guardian prior to or at the time of admission and quarterly during the resident's stay at the facility of all service charges for which the resident *or* [~~and~~] his responsible family member or his guardian *is* [~~are~~] responsible for paying. The resident and *the responsible party or* his responsible family member or his guardian shall have the right to file complaints concerning charges which they deem unjustified to appropriate local and state consumer protection agencies. Every long-term care facility shall keep the original document of each written acknowledgment in the resident's personal file.

(4) The resident shall be transferred or discharged only for medical reasons, or his own welfare, or that of the other residents, or for nonpayment, except where prohibited by law or regulation. Reasonable notice of such action shall be given to the resident and *the responsible party or* his responsible family member or his guardian.

(5) All residents shall be encouraged and assisted throughout their periods of stay in long-term care facilities to exercise their rights as a resident and a citizen, and to this end may voice grievances and recommend changes in policies and services to facility staff and to outside representatives of their choice, free from restraint, interference, coercion, discrimination or reprisal.

(6) All residents shall be free from mental and physical abuse, and free from chemical and physical restraints except in emergencies or except as thoroughly justified in writing by a physician for a specified and limited period of time and documented in the resident's medical record.

(7) All residents shall have confidential treatment of their medical and personal records. Each resident *or* [~~and~~] his responsible family member or his guardian shall approve or refuse the release of such records to any individuals outside the facility, except as otherwise specified by statute or regulation.

(8) Each resident may manage the use of his personal funds. If the facility accepts the responsibility for managing the resident's personal funds as evidenced by the facility's written acknowledgment, proper accounting and monitoring of such funds shall be made. This shall include each facility giving quarterly itemized statements to the resident and *the responsible party or* his responsible family member or his guardian which detail the status of the resident's personal funds and any transactions in which such funds have been received or disbursed. The facility shall return to the resident his valuables, personal possessions and any unused balance of moneys from his account at the time of his transfer or discharge from the facility. In case of death or for valid reasons when he is transferred or discharged the resident's valuables, personal possessions and funds that the facility is not liable for shall be promptly returned to the resident's responsible *party or* family member, or his guardian, or his executor.

(9) If a resident is married, privacy shall be assured for spouse's visits and if they are both residents in the facility, they may share the same room unless they are in different levels of care or unless medically contraindicated and documented by a physician in the resident's medical record.

(10) Residents shall not be required to perform services for the facility that are not included for therapeutic purposes in their plan of care.

(11) Residents may associate and communicate privately with persons of their choice and send and receive personal mail unopened.

(12) Residents may retain the use of their personal clothing unless it would infringe upon the rights of others.

(13) No responsible resident shall be detained against his will. Residents shall be permitted and encouraged to go outdoors and leave the premises as they wish unless a legitimate reason can be shown and documented for refusing such activity.

(14) Residents shall be permitted to participate in activities of social, religious, and community groups at their discretion.

(15) Residents shall be assured of at least visual privacy in multi-bed rooms and in tub, shower, and toilet rooms.

(16) The resident and *the responsible party or* his responsible family member or his guardian shall be permitted the choice of a physician.

(17) If the resident is adjudicated mentally disabled in accordance with state law, the resident's guardian shall act on the resident's behalf in order that his rights be implemented.

(18) Each resident shall be treated with consideration, respect, and full recognition of his dignity and individuality, including privacy in treatment and in care for his personal needs.

(19) Every resident and *the responsible party or* his responsible family member or his guardian has the right to be fully informed of the resident's medical condition unless medically contraindicated and documented by a physician in the resident's medical record.

(20) Residents have the right to be suitably dressed at all times and given assistance when needed in maintaining body hygiene and good grooming.

(21) Residents shall have access to a telephone at a convenient location within the facility for making and receiving telephone calls.

(22) The resident's responsible *party or* family member or his guardian shall be notified immediately of any accident, sudden illness, disease, unexplained absence, or anything unusual involving the resident.

(23) Residents have the right to have private meetings with the appropriate long-term care facility inspectors from the cabinet for human resources.

(24) Each resident and *the responsible party or* his responsible family member or his guardian has the right to have access to all inspection reports on the facility.

(25) The above-stated rights shall apply in all cases unless medically contraindicated and documented by a physician in writing in the resident's medical record.

(26) Any resident whose rights as specified in this section are deprived or infringed upon shall have a cause of action against any facility responsible for the violation. The action may be brought by the resident or his guardian. The action may be brought in any court of competent jurisdiction to enforce such rights and to recover actual and punitive damages for any deprivation or infringement on the rights of a resident. Any plaintiff who prevails in such action against the facility may be entitled to recover reasonable attorney's fees, costs of the action and damages, unless the court finds the plaintiff has acted in bad faith, with malicious purpose, or that there was a complete absence of justifiable issue of either law or fact. Prevailing defendants may be entitled to recover reasonable attorney's fees. The remedies provided in this section are in addition to and cumulative with other legal and administrative remedies available to a resident and to the cabinet.

Section 5. KRS 216.520 is amended to read as follows:

For the purpose of supplementing the rights of residents in long-term care facilities, such facilities shall take the following actions:

(1) Every long-term care facility shall conspicuously post throughout the facility a listing of the resident's rights and responsibilities as defined in KRS 216.515 to 216.525.

(2) Every long-term care facility shall develop and implement a mechanism which will allow each resident and *the responsible party or* his responsible family member or his guardian to participate in the planning of the resident's care. Each resident shall be encouraged and provided assistance in the planning of his care.

(3) All long-term care facilities shall establish written procedures for the submission and resolution of complaints and recommendations by the resident and *the responsible party or* his responsible family member or his guardian. Such policies shall be conspicuously displayed throughout the facility pending approval of their adequacy by the cabinet.

(4) Every long-term care facility shall prepare a written plan and provide appropriate staff training to implement each of the resident's rights as defined in KRS 216.515 to 216.525.

(5) All long-term care facilities shall maintain in their facilities one copy of the most recent inspection report as prepared by the cabinet for human resources. The cabinet shall provide all long-term care facilities with one copy of the most recent inspection report.

HB 621, AN ACT relating to psychologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 319.050 is amended to read as follows:

(1) Before granting a license to practice psychology and to use the title "Psychologist" the board shall require the applicant to pass an examination in psychology. The applicant shall:

(a) Pay a fee not to exceed two hundred dollars ($200);

(b) Have received a doctoral degree in psychology from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Have had at least one (1) year of supervised professional experience satisfactory to the board.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist *under conditions of temporary licensure established by the board* [~~until he successfully completes all licensure requirements~~]. No applicant shall supervise certified psychologists or psychological assistants until he successfully completes all licensure requirements.

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4) Licensed psychologists may function without supervision and may employ and supervise certified psychologists and psychological assistants. Licensed psychologists may supervise no more than a total of six (6) certified psychologists or psychological assistants at one time.

(5) The board shall after examination in a specialty area issue a license to practice psychology.

Section 2. KRS 319.064 is amended to read as follows:

(1) For an individual with a master's degree in psychology whose application is received after January 1, 1988, the board shall issue a certificate to perform certain functions within the practice of psychology and to use the title "psychological assistant" to any applicant who:

(a) Pays a fee not to exceed two hundred dollars ($200);

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) *Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board.*

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4)[~~(3)~~] Any psychological assistant certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist and shall not practice independently, except under the employment and supervision of a licensed psychologist. A psychological assistant shall not represent himself as a licensed or certified psychologist. A psychological assistant shall not employ or supervise certified psychologists or psychological assistants.

Section 3. KRS 319.082 is amended to read as follows:

(1) The board may suspend or revoke any license or certificate or may refuse to issue or renew a license or certificate, or may accept an assurance of voluntary compliance, or may place a licensee or certificate holder on probation. Upon proof that the licensee or certificate holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction, of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license or certificate, or in reinstatement thereof;

(c) Committed any unfair, false, misleading or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope of practice defined in the speciality area of examination;

(l) Failed to provide adequate supervision for certified psychologists, psychological assistants, applicants for licensure, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient or client; *or* [~~and~~]

(o) Improperly divulged confidential information.

(2) No unlawful act or violation of any provision of this chapter by any certificate holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license unless the board finds that the licensed psychologist had knowledge of it.

(3) Three (3) years from the date of a revocation, any person whose license or certificate has been revoked may petition the board for reinstatement. The board shall investigate his petition and may reinstate his license or certificate upon finding that the former holder has complied with any reasonable regulations prescribed by the board and is again able to engage in the practice of psychology with reasonable skill, competency and safety to the public.

(4) The board may, at its own discretion, reconsider, modify or reverse its probations, suspensions, revocations or refusals to issue or renew licenses or certificates at any time.

The Committee Substitute to **HB 621** is as follows:

HB 621, AN ACT relating to psychologists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 319.020 is amended to read as follows:

(1) The board shall consist of seven (7) members appointed by the governor. Four (4) members shall be licensed psychologists. Two (2) members shall be certified by the board as certified psychologists or psychological *associates* [~~assistants~~]. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated.

(2) Licensed psychologist members shall be appointed by the governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists licensed under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all psychologists licensed according to the provisions of this chapter, and each nominee shall be a psychologist licensed according to the provisions of this chapter. Each psychologist member shall be an elector of this state and shall have engaged in the practice or teaching of psychology as a licensed psychologist for at least three (3) years in this state.

(3) Certified psychologist members shall be appointed by the governor from a group consisting of the three (3) nominees receiving the most votes for each position to be filled, the nominees to be selected by all psychologists and psychological *associates* [~~assistants~~] certified under this chapter from a list of eligible candidates prepared by the Kentucky Psychological Association. Candidates shall be solicited from all psychologists and psychological *associates* [~~assistants~~] certified according to the provisions of this chapter. Each nominee shall be a resident of this state certified according to the provisions of this chapter and shall have engaged in the practice or teaching of psychology as a certified psychologist or psychological *associate* [~~assistant~~] for at least three (3) years in this state.

(4) The term of each board member shall be four (4) years and until a successor is appointed and qualified, except that in 1986, one (1) certified member shall be appointed for a term of two (2) years and one (1) certified member shall be appointed for a term of four (4) years. No member shall serve more than two (2) consecutive full terms. The governor shall fill any vacancy occurring in the board in the manner prescribed in subsection (2) of this section. Upon recommendation by a majority of the board members and after notice and a hearing, the governor shall remove any member for incompetence, neglect of duty or malfeasance in office.

(5) Four (4) members of the board shall constitute a quorum. Each member shall receive one hundred dollars ($100) per day for attending each meeting and shall receive his necessary expenses incurred in the performance of the duties required by this chapter. Annually the board shall elect one (1) of its licensed members as chairman. No person shall serve more than two (2) consecutive terms as chairman. The board shall meet at least twice annually and at such other times as it determines. Special meetings may be called by the chairman and shall be called upon the written request of two (2) members.

Section 2. KRS 319.030 is amended to read as follows:

(1) On June 30 of each year the board shall submit to the governor a written report including the names of all psychologists to whom licenses or certificates have been granted as provided in this chapter and any cases heard and decisions rendered.

(2) The principal office of the board shall be in Frankfort, but it may meet or conduct any of its business at any place in this state.

(3) The board shall keep a record of its proceedings and a register of licensed and certified psychologists and psychological *associates* [~~assistants~~]. The books and records of the board shall be prima facie evidence of the matters therein contained.

Section 3. KRS 319.032 is amended to read as follows:

The board shall adopt rules and regulations:

(1) Establishing requirements, standards and tests to determine the moral, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses or certificates; define areas of specialty within the field of psychology; and prepare or select and administer examinations on general psychological knowledge and on the appropriate psychological specialty or specialities of the applicant. Neither certified psychologists nor psychological *associates* [~~assistants~~] may participate in the examination of applicants for licensures;

(2) Establishing and defining the scope of practice within each area of speciality within the field of psychology;

(3) Setting the requirements for issuing, denying, suspending, and revoking licenses and certificates, and placing licensees and certificate holders on probation;

(4) Establishing and collecting reasonable fees for directories, for transcribing and transferring records and other services;

(5) Conducting hearings or appointing hearing officers to conduct hearings on any matter under the jurisdiction of the board. Every such hearing officer shall cause to be prepared and furnished to the board, for decision thereon by the board, a complete written transcript or mechanical recording of the hearing which shall contain all evidence introduced at the hearing and all pleas, motions and objections and all rulings of the hearing officer;

(6) Entering into reciprocal agreements with boards of examiners of psychology of other states having qualifications and standards at least as high as those of this state providing for reciprocal licensure or certification. An individual whose qualifications meet or exceed the standards for licensure in Kentucky may be licensed without examination. An individual whose qualifications meet or exceed the standards for certification in Kentucky may be certified without examination;

(7) Employing personnel including hearing officers which it considers necessary for the performance of its functions, determining the duties of such personnel, and compensating them within the limits of funds available to the board;

(8) The board, at its discretion, may use such funds as are necessary to purchase liability insurance for members and executive officers of the board, inspectors and for members of the staff exempted from classified service of the state by KRS 18A.115;

(9) Investigating complaints or suspended violations of this chapter and notifying proper law enforcement authorities. For the purpose of enforcing the provisions of this chapter, the board shall have the authority to administer oaths, receive evidence, interview persons, and require the productions of books, papers, documents or other evidence;

(10) Governing the supervision of certified psychologists and candidates for licensure, and regulations governing the supervision and employment of psychological *associates* [~~assistants~~];

(11) Providing for the performance of all other functions necessary to carry out the provisions of law and the rules and regulations adopted by the board relating to psychologists and the practice of psychology;

(12) Notwithstanding the fee schedules specified in this chapter, the board may, for good cause, increase or decrease fees as it deems appropriate; and

(13) The board shall have the authority to adopt such other rules and regulations as it deems necessary for the proper administration of this chapter.

Section 4. KRS 319.050 is amended to read as follows:

(1) Before granting a license to practice psychology and to use the title "Psychologist" the board shall require the applicant to pass an examination in psychology. The applicant shall:

(a) Pay a fee not to exceed two hundred dollars ($200);

(b) Have received a doctoral degree in psychology from a regionally accredited educational institution; provided, however, the board may grant a license to an individual otherwise qualified under this chapter who has received a doctoral degree in psychology from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Have had at least one (1) year of supervised professional experience satisfactory to the board.

(2) Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist *under conditions of temporary licensure established by the board* [~~until he successfully completes all licensure requirements~~]. No applicant shall supervise certified psychologists or psychological *associates* [~~assistants~~] until he successfully completes all licensure requirements.

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4) Licensed psychologists may function without supervision and may employ and supervise certified psychologists and psychological *associates* [~~assistants~~]. Licensed psychologists may supervise no more than a total of six (6) certified psychologists or psychological *associates* [~~assistants~~] at one time.

(5) The board shall after examination in a specialty area issue a license to practice psychology.

Section 5. KRS 319.058 is amended to read as follows:

(1) Prior to January 1, 1988, the board may issue a certificate to perform certain functions within the practice of psychology and to use the title "certified psychologist" to any applicant who:

(a) Pays a fee not to exceed two hundred dollars ($200);

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) The board shall grade and keep the examinations for at least one (1) year. An unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(3) Any psychologist certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist, and shall not employ or supervise certified psychologists or psychological *associates* [~~assistants~~].

(4) After January 1, 1988, no application shall be accepted for an individual to be granted a certificate to perform certain functions within the practice of psychology and to use the title "certified psychologist." After that date any application from an individual with a master's degree in psychology shall be considered an application for "psychological *associate* [~~assistant~~]" status.

Section 6. KRS 319.062 is amended to read as follows:

(1) A person certified to perform certain functions within the practice of psychology or an applicant for certification whose application has been accepted by the board prior to January 1, 1988, to sit for the certification examination may apply for a certificate to practice without supervision and to use the title "certified psychologist with autonomous functioning" by:

(a) Submitting to the board a letter of endorsement to sit for the examination from his supervisor of record;

(b) Paying a fee not to exceed two hundred dollars ($200);

(c) Having received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(d) Having completed, after certification by the board, the equivalent of two (2) full years of supervised professional experience satisfactory to the board.

(2) The board shall require any applicant for a certificate under this section to pass the national objective examination (EPPP) with a score of one (1) standard deviation below the mean or higher and to pass an oral examination on ethical principles and psychological practice. The applicant may continue to practice psychology under the supervision of a licensed psychologist until he successfully completes all requirements for autonomous functioning.

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4) The authority of the board to grant autonomous functioning shall be repealed after December 31, 1990.

(5) A certified psychologist who has been granted autonomous functioning may function without supervision in areas in which he is certified. He shall not supervise certified psychologists or psychological *associates* [~~assistants~~].

Section 7. KRS 319.064 is amended to read as follows:

(1) For an individual with a master's degree in psychology whose application is received after January 1, 1988, the board shall issue a certificate to perform certain functions within the practice of psychology and to use the title "psychological *associate* [~~assistant~~]" to any applicant who:

(a) Pays a fee not to exceed two hundred dollars ($200);

(b) Has received a master's degree in psychology acceptable to the board from a regionally accredited educational institution or from an educational institution outside the United States if such educational institution would otherwise be accredited by a regional accrediting body if located in the United States; and

(c) Has passed an examination procedure in psychology.

(2) *Upon acceptance of the application to sit for the examination in psychology, the applicant may practice psychology under the supervision of a licensed psychologist under conditions of temporary certification established by the board.*

(3) The board shall grade and keep the examinations for at least one (1) year. Any unsuccessful applicant may, upon written request to the board, arrange to discuss his performance on the examination.

(4)[~~(3)~~] Any psychological *associate* [~~assistant~~] certified pursuant to this section may perform certain functions within the practice of psychology only under the supervision of a licensed psychologist and shall not practice independently, except under the employment and supervision of a licensed psychologist. A psychological *associate* [~~assistant~~] shall not represent himself as a licensed or certified psychologist. A psychological *associate* [~~assistant~~] shall not employ or supervise certified psychologists or psychological *associates* [~~assistants~~].

Section 8. KRS 319.082 is amended to read as follows:

(1) The board may suspend or revoke any license or certificate or may refuse to issue or renew a license or certificate, or may accept an assurance of voluntary compliance, or may place a licensee or certificate holder on probation,[~~.~~] upon proof that the licensee or certificate holder has:

(a) Committed any act involving moral turpitude, dishonesty, or corruption, relating to the practice of psychology, whether the act constitutes a crime or not. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction, of such a crime, the judgment and sentence is presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant of the crime described in the indictment or information and of the person's violation of the statute on which it is based. For the purpose of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for the conviction and all proceedings in which the sentence has been deferred or suspended;

(b) Misrepresented or concealed a material fact in obtaining a license or certificate, or in reinstatement thereof;

(c) Committed any unfair, false, misleading or deceptive act or practice;

(d) Been incompetent or negligent in the practice of psychology;

(e) Practiced psychology while under the suspension, revocation, or restriction of the individual's license to practice by competent authority in any state, federal, or foreign jurisdiction;

(f) Violated any state statute or administrative regulation governing the practice of psychology;

(g) Unlawfully failed to cooperate with the board by:

1. Not furnishing any papers or documents requested by the board;

2. Not furnishing in writing a complete explanation covering the matter contained in the complaint filed with the board;

3. Not appearing before the board at the time and place designated; or

4. Not properly responding to subpoenas issued by the board;

(h) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(i) Aided or abetted an unlicensed person to practice when a license or certificate is required;

(j) Grossly overcharged for professional services;

(k) Practiced beyond the scope of practice defined in the speciality area of examination;

(l) Failed to provide adequate supervision for certified psychologists, psychological *associates* [~~assistants~~], applicants for licensure, or other staff;

(m) Been convicted of any misdemeanor or felony relating to the practice of psychology. For the purposes of this subsection, conviction includes all instances in which a plea of guilty or nolo contendere is the basis for conviction and all proceedings in which the sentence has been deferred or suspended;

(n) Physically abused or had sexual contact with a patient or client; *or* [~~and~~]

(o) Improperly divulged confidential information.

(2) No unlawful act or violation of any provision of this chapter by any certificate holder employed or supervised by a licensed psychologist shall be cause for the revocation of the supervisor's license unless the board finds that the licensed psychologist had knowledge of it.

(3) Three (3) years from the date of a revocation, any person whose license or certificate has been revoked may petition the board for reinstatement. The board shall investigate his petition and may reinstate his license or certificate upon finding that the former holder has complied with any reasonable regulations prescribed by the board and is again able to engage in the practice of psychology with reasonable skill, competency

and safety to the public.

(4) The board may, at its own discretion, reconsider, modify or reverse its probations, suspensions, revocations or refusals to issue or renew licenses or certificates at any time.

HB 704, AN ACT relating to substance abuse.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

In this chapter the following words shall, unless the context requires otherwise, have the following meanings:

(1) "Administrator" means the person in charge of the operation of a substance abuse prevention, intervention or treatment program, or his designee.

(2) "Agency" means a legal entity operating hospital or non-hospital substance abuse prevention, intervention and treatment programs.

(3) "Cabinet" means the cabinet for human resources.

(4) "Director" means the director of the division of substance abuse.

(5) "Hospital" means an establishment with organized medical staffs and permanent facilities with inpatient beds which provide medical services, including physician services and continuous nursing services for the diagnosis and treatment of patients who have a variety of medical conditions, both surgical and nonsurgical.

(6) "Intoxication" means being under the influence of alcohol or other drugs or both, which significantly impairs a person's ability to function.

(7) "Juvenile" means any person who is under the age of eighteen (18).

(8) "Other drugs" means controlled substances as defined in KRS Chapter 218A and volatile substances as defined in KRS 217.900.

(9) "Patient" means any person admitted to a hospital or a licensed substance abuse treatment program.

(10) "Program" means a set of services rendered directly to the public that is organized around a common goal of either preventing, intervening or treating substance abuse problems.

(11) "Secretary" means the secretary of the cabinet for human resources.

(12) "Substance abuse" means a dysfunctional use of alcohol or other drugs or both, characterized by one (1) or more of the following patterns of use:

(a) The continued use despite knowledge of having a persistent or recurrent social, legal, occupational, psychological, or physical problem that is caused or exacerbated by use of alcohol or other drugs or both;

(b) Use in situations which are potentially physically hazardous;

(c) Loss of control over the use of alcohol or other drugs or both;

(d) Use of alcohol or other drugs or both is accompanied by symptoms of physiological dependence including pronounced withdrawal syndrome and tolerance of body tissues to alcohol or other drugs or both.

(13) "Treatment" means services and programs for the care and rehabilitation of intoxicated persons and

substance abusers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources is further designated to carry out the planning activities of the Commonwealth in the field of substance abuse and to provide assistance to the activities of other state agencies in combating the problems of substance abuse as they may affect those state agency programs or persons under their respective charge and care.

(2) To implement the coordination of state agencies' substance abuse programs there is hereby established an interagency council on substance abuse which shall be composed of, but not restricted to, a representative from each of the following departments: the governor's office; attorney general's office; department of education; administrative office of the courts; department of personnel; cabinet for human resources; commerce cabinet; corrections cabinet; labor cabinet; justice cabinet; transportation cabinet; council on higher education; Kentucky state police; department for alcoholic beverage control; department of military affairs; commission on women; and Kentucky educational television.

(3) The director of the division of substance abuse shall serve as the coordinator of the interagency council.

(4) An annual comprehensive state plan for substance abuse, prevention, intervention and treatment shall be developed by the interagency council from recommendations and evaluations from various agencies of state government. Upon approval of the plan by the Governor, each state agency shall expend its resources pursuant to the state plan.

(5) The provisions of this section shall be in addition to any present statutory responsibility given to state departments and not withstanding any other provision to the contrary.

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

The cabinet shall coordinate matters affecting substance abuse in the Commonwealth, and shall assure that there is the provision of prevention, intervention and treatment services for both juveniles and adults to address the problems of substance abuse within individuals, families and communities; that the coordination of such matters shall be done in cooperation with public and private agencies, business and industry; and that technical assistance, training and consultation services shall be provided within budgetary limitations whenever required. The cabinet may adopt rules and regulations to carry out its powers and duties under this chapter. The cabinet shall be responsible for assuring that the following services are available and shall utilize community mental health centers and existing facilities and services available within the private sector whenever possible:

(1) Primary prevention services directed to the general population and identified target groups for the purposes of avoiding the onset of substance abuse related problems and enhancing the general level of health. The purpose of such services is to provide individuals with the information and skills necessary to make healthy decisions regarding the use or non-use of alcohol and other drugs as well as to influence environmental factors such as social policies and norms which will support healthy lifestyle;

(2) Intervention services for the purpose of identifying, motivating and referring individuals in need of substance abuse education or treatment services. Services may be provided in settings such as industry and business, schools, health and social service agencies;

(3) Detoxification services on a twenty-four (24) hour basis in or near population centers which meet the immediate medical and physical needs of persons intoxicated from the use of alcohol or drugs or both, including necessary diagnostic and referral services. Such services shall be provided in either a hospital or a licensed substance abuse program;

(4) Rehabilitation services offered on an inpatient or outpatient basis for the purposes of treating an individual's substance abuse problem. Such services shall be provided in a licensed substance abuse program;

(5) Therapeutic services to family members of substance abusers for the purpose of reducing or eliminating dysfunctional behavior that may occur within individuals who are emotionally, socially and sometimes physically dependent on a substance abuser. Such services are offered primarily on an outpatient basis;

(6) Inpatient psychiatric services for those substance abusers whose diagnosis reflects both serious mental health disturbances as well as substance abuse disorders.

(7) Training programs for personnel working in the field of prevention, intervention and treatment of substance abuse problems; and

(8) Assessment of the person's impairment due to their alcohol or drug use, as well as education and treatment services for persons convicted of operating a motor vehicle, while under the influence of alcohol or other substance which may impair driving ability, pursuant to KRS Chapter 189A.

SECTION 4. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet may:

(a) Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and the execution of its powers under this chapter including, but not limited to, contracts with government departments, public and private agencies and facilities, physicians and other persons rendering services to substance abusers; provided, however, that all rates are to be established in accordance with regulations promulgated by the cabinet; and provided further, that income and resources of substance abusers to pay for services shall be taken into consideration to the fullest extent possible and the cabinet shall be subrogated to any public or private third-party payments which may be due;

(b) Establish and operate facilities if adequate public and private resources are not available.

(c) Solicit and accept for use in relation to the purposes of this chapter any gift or bequest of money or property and any grant or loans of money, services, or property from the federal government, the Commonwealth or any political subdivision thereof. Any money received under this paragraph shall be deposited with the state treasurer to be kept in a separate fund in the treasury for expenditure by the cabinet in accordance with the conditions of the gift, bequest, loan or grant without specific appropriations; and

(d) The cabinet may establish rules and regulations for the admission of patients to its facilities and may set fees for treatment. Except as otherwise provided by law, all provisions of KRS Chapter 210 relating to charges and collection for treatment of the mentally ill shall apply to fees and collection of fees for treatment of substance abusers.

(2) The cabinet shall prepare and publish annually a directory of all substance abuse facilities and services available in the Commonwealth. This directory shall be made available upon request.

SECTION 5. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall issue for a term of one (1) year, and may renew for like terms, a license, subject to revocation by it for cause, to any persons, other than a licensed substance abuse program operated by a health facility as defined in KRS 216B.015(11) or a department, agency, or institution of the federal government, deemed by it to be responsible and suitable to establish and maintain a program and to meet applicable licensure standards and requirements.

(2) The cabinet shall promulgate rules and regulations establishing requirements and standards for licensing and approval of programs. Such requirements and standards shall include, but shall not be limited to:

(a) The health standards to be met by a facility housing a program;

(b) Patient care standards and minimum operating, training and maintenance of patient records standards;

(c) Licensing fees, application, renewal and revocation procedures, and the procedures for evaluation of the substance abuse programs;

(d) Classification of substance abuse programs according to type, range of services and level of care provided.

(3) The cabinet may establish different requirements and standards for different kinds of programs, and may impose stricter requirements and standards in contracts with agencies made pursuant to Section 4 of this Act.

(4) Each program shall be individually licensed or approved.

(5) Each agency shall file with the cabinet from time to time, such data, statistics, schedules or information as the cabinet may reasonable require for the purposes of this section.

(6) The cabinet, after holding a hearing conducted by a hearing officer appointed by the secretary, may refuse to grant, suspend, revoke, limit or restrict the applicability of or refuse to renew any license or approval for any failure to meet the requirements of its rules and regulations or standards concerning such programs. Appeal from such decisions shall be with the Franklin Circuit Court.

(7) No person, excepting a license substance abuse program operated by a health facility as defined in KRS 216B.015(11) or a department, agency or institution of the federal government, shall operate a program without such a license.

(8) Each program shall be subject to visitation and inspection by the cabinet and the cabinet shall inspect each program prior to granting or renewing a license or approval. The cabinet may examine the books and accounts of any program if it deems such examination necessary for the purposes of this section.

(9) The director may require agencies which contract with the Commonwealth pursuant to Section 4 of this Act, to admit as an inpatient or outpatient any person to be afforded treatment pursuant to this chapter.

(10) The cabinet shall promulgate rules and regulations governing the extent to which programs may be required to treat any person as an inpatient or outpatient pursuant to this chapter, except that no licensed hospital with an emergency service shall refuse any person treatment for acute alcohol and other drug intoxication or severe withdrawal syndrome.

SECTION 6. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The administrator of each program shall keep a record of the treatment afforded each substance abuse patient, which shall be confidential in accordance with regulations promulgated by the cabinet.

(2) Any patient shall have the right to have a physician retained by him examine him, consult privately with his attorney, receive visitors, and send and receive communications by mail, telephone and telegraph. Such communications shall not be censored or read without consent of such patient. The foregoing shall not limit the right of the administrator, subject to reasonable rules and regulations of the cabinet, to prescribe reasonable rules governing visitation rights, use of the mail and telephone and telegraph facilities.

SECTION 7. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The programs or activities of the voluntary self-help organizations known as alcoholics anonymous, narcotics anonymous, al-anon and similar organizations in the area of substance abuse rehabilitation shall not be restricted or regulated by the provisions of this chapter.

(2) The programs or activities of voluntary community groups and agencies, such as students against drunk driving, national federation of parents, parent resource institute for drug education and similar organizations in the area of substance abuse prevention shall not be restricted or regulated by the provisions of this chapter.

(3) Nothing contained in this Act shall affect any laws, ordinances, resolutions or regulations against driving under the influence of alcohol or other drugs, or other similar offenses that involve the operation of motor vehicles, machinery or other hazardous equipment.

SECTION 8. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

This Act shall be known and may be cited as the Substance Abuse Prevention, Intervention and Treatment Law.

SECTION 9. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

No hospital shall refuse to admit and treat the medical needs of substance abusers; nor shall any hospital discriminate against such persons solely because of their substance abuse.

SECTION 10. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) Any person may request treatment from a physician, or substance abuse program licensed or approved by the cabinet for human resources to provide substance abuse treatment services.

(2) Every substance abuse program that provides intervention or treatment services or both to a person with substance abuse problems shall upon request of the cabinet for human resources make a statistical report to the secretary, in such a form and manner as the secretary shall prescribe, of persons provided treatment services during a specified period of time. The name or address of any person to whom intervention or treatment services or both were provided shall not be reported. The secretary of the cabinet for human resources shall provide compilations of such statistical information to other appropriate agencies upon request.

SECTION 11. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other law, a minor who suffers from a substance abuse problem or emotional disturbance from the effects of a family member or legal guardian's substance abuse problem, may give consent to the furnishing of medical care or counseling related to the assessment or treatment of such conditions. The consent of the minor shall be valid as if the minor had achieved majority. No person or facility shall incur liability by reason of having made a diagnostic examination or rendered treatment as provided in this section, but such immunity shall not apply to any negligent acts or omissions.

SECTION 12. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of KRS 13A.345, all administrative regulations heretofore adopted by the cabinet for human resources relating to the licensing of alcohol and drug abuse prevention, education and treatment programs and on file with the legislative research commission on the effective date of this Act shall remain in full force and effect unless subsequently amended or repealed by the cabinet.

Section 13. KRS 210.990 is amended to read as follows:

(1) Any officer who violates KRS 210.110 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) and his office or appointment shall without further action be vacant.

(2) Any person who wilfully violates KRS 210.130 or 210.220 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

[~~(3) Any person establishing, conducting, managing or operating any DATE center without proper permit under KRS 210.610 to 210.680 shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than twenty-five dollars ($25) for the first offense, and not more than one hundred dollars ($100) for each subsequent offense. Each day of continuing violation shall be considered a separate offense.~~]

Section 14. KRS 222.280 is amended to read as follows:

The secretary of health, education and welfare of the United States shall be afforded reasonable access to any reports, records, or the like, kept by the cabinet for human resources pursuant to and in accordance with the provisions of *Sections 1 to 12 of this Act* [~~KRS 222.210 to 222.300~~]. The comptroller general of the United States or his duly authorized representatives shall have access for the purpose of audit and examination to the same aforesaid reports, records or the like.

Section 15. The following KRS sections are repealed:

210.610 Definitions for KRS 210.620 to 210.680.

210.620 Issuance of permits for operation of DATE centers — Evaluation — Fees.

210.630 Permit required for operation of DATE center.

210.640 DATE center permit — Denial or revocation.

210.650 Revocation of permit — Reinstatement.

210.660 Inspection.

210.670 Confidential information.

210.680 State or federal agencies issued permit automatically.

222.011 Definitions.

222.031 Planning and coordination of programs on alcoholism and drug abuse — Interagency councils.

222.210 Cabinet's functions as to alcoholism.

222.220 Administrative powers of cabinet — Annual list of facilities and services.

222.230 Licensing of treatment facilities.

222.240 Admission to treatment facility.

222.250 Supervision of person receiving treatment.

222.260 Provisions as to juvenile patients.

222.270 Confidential record of treatment — Patient's rights.

222.290 Areas not affected by treatment and rehabilitation law.

222.300 Citation of KRS 222.210 to 222.300.

222.310 Hospitals required to treat alcoholism.

222.410 Cabinet to study drug problems — Administrative powers — Providing treatment — Fees.

222.420 Treatment for drug problem on request — Statistical reports.

222.430 Involuntary hospitalization for drug problem — Rights of patient.

222.440 Capacity of juvenile to consent to treatment.

The Committee Amendment No. 1 to **HB 704** is as follows:

Amend printed copy of **HB 704** on page 10, line 25,

By adding after the word "*person*" the following: "*suffering from*"

And on page 10, line 26,

By deleting the words "*treatment for*"

And also on page 10, line 26,

By deleting the word "*and*" and inserting in lieu thereof the word "*or*"

And on page 11, line 1,

By adding after the word "*syndrome*" the words "*from emergency medical care*"

On page 12, line 17,

By inserting "*(1)*" preceding the word "*No*"

And also on page 12, between lines 20 and 21,

By inserting the following new subsection:

"*(2) Any intoxicated person admitted to a licensed substance abuse program or a licensed hospital shall receive treatment at the program or hospital for as long as the person wishes to remain or until the administrator determines that treatment will no longer benefit the person; provided, however, that any person, who is intoxicated at the time of admission, shall remain at the facility until he is no longer intoxicated, but in no event shall the person be required to remain for a period greater than seventy-two (72) hours.*"

On page 13, line 15,

By inserting "*(1)*" preceding the word "*Notwithstanding*"

And also on page 13, line 18,

By inserting after the word "*problem*" the following: "*or the parent or guardian of such minor*"

And also on page 13, between lines 25 and 26,

By adding the following new subsection:

"*(2) A minor hospitalized or treated without his consent but with the consent of his parent or guardian shall have the right to contact the court designated worker, as described in KRS Chapter 600 and 605, in the county where the hospital or treatment is located, to communicate with such worker and the district court. The minor may petition the district court to determine whether or not the minor is suffering from alcohol or drug abuse or addiction and whether or not such treatment is necessary for the health and welfare of the minor. At the time of hospitalization, the minor shall be provided with information as to how to contact the court designated worker.*"

HB 730, AN ACT relating to family day care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) "Cabinet" means the cabinet for human resources.

(2) "Registered family day care provider" means a person who is at least eighteen (18) years of age who provides care in his own private residence for less than a twenty four (24) hour period for three (3) or fewer children not related by blood, marriage or adoption and who is not required to be licensed pursuant to KRS 199.896, but has voluntarily met the requirements for registration pursuant to this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 199 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall establish a voluntary registration program for family day care providers no later than July 15, 1989. Family day care providers who are not required to be licensed pursuant to the provisions of KRS 199.896 shall be allowed to register with the cabinet at the discretion of the provider. Applicants for registration shall meet the following minimum requirements:

(a) Submit two (2) written character references;

(b) Demonstrate completion of at least two (2) hours first aid training and two (2) hours of child care training;

(c) Submit to a criminal record check as provided by KRS 17.165;

(d) Provide smoke detectors, a telephone or access to a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided; and

(e) A copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for registration.

(2) Initial applications for registration shall be made to the cabinet and shall be accompanied by a fee of twenty dollars ($20.00). The cabinet shall issue a certificate of registration upon inspecting the residence of the family day care provider and determining if the provider complies with the provisions of this section. The cabinet may contract with other entities for the purpose of inspecting and monitoring family day care providers. A certificate of registration issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10.00). The cabinet shall promulgate administrative regulations not later than January 1, 1989 which establish standards for the issuance, monitoring, renewal, denial, revocation and suspension of a certificate of registration to a family day care provider.

(3) Registered family day care providers shall display the certificate of registration in a prominent place within the residence in which care is provided. The cabinet shall provide registered family day care providers with pamphlets explaining the requirements for family day care providers and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents. The cabinet or its designee shall also provide registered family day care providers with information regarding available training and local child care food sponsoring organizations.

HB 829, AN ACT relating to testing for acquired immune deficiency syndrome.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 197 IS CREATED TO READ AS FOLLOWS:

(1) All current prisoners in state penitentiares, and all new commitments to state penitentiaries shall undergo testing as approved by the U.S. food and drug administration to determine whether the prisoner has been infected with the human immunodeficiency virus (HIV) or any other identified causative agent of acquired immune deficiency syndrome (AIDS). Any test shall be administered only by a duly licensed physician. Except as otherwise provided by law, the results of the test shall be kept strictly confidential by all personnel involved in the testing and shall be personally delivered in a sealed envelope to the judge of the court in which the conviction was entered for the judge's inspection in camera. Acting in accordance with the best interests of the public, the judge shall have the discretion to determine to whom, if anyone, the results of the testing may be revealed.

(2) The confidentiality provisions of KRS 214.400 to 214.420 shall not apply to test results under this section.

HB 868, AN ACT relating to nursing providing for the creation and operation of a scholarship fund to be known as the Kentucky Nursing Incentive Scholarship Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Nursing Incentive Scholarship Fund.

(2) It is the intent of the general assembly of the Commonwealth of Kentucky to alleviate the shortage of nurses within the Commonwealth; further it is the intent of the general assembly to provide these scholarships to low-income, unemployed residents of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) As used in this Act, unless the context requires otherwise, "cabinet" means the state cabinet for human resources.

(2) The cabinet shall make nursing scholarships in two (2) and four (4) year nursing degree programs available to persons through the Kentucky nursing incentive scholarship fund, in cooperation with the Kentucky hospital association, as set forth by this Act.

(3) The cabinet shall administer the Kentucky nursing incentive scholarship fund. The cabinet shall be responsible for receiving and evaluating all applicants for the scholarship made by students who are bona fide residents of the Commonwealth and who desire to become nurses. The cabinet shall make a careful and full investigation of the ability and qualifications of each applicant to determine if the applicant complies with criteria for such scholarships as set forth in this Act before contracting with the student for receipt of funds.

(4) The cabinet shall be responsible for contracting with nursing schools, both public and private, for the admission of approved students and further shall enforce the provisions of such contracts.

SECTION 3. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) Funding for the Kentucky nursing scholarship incentive fund shall be supplied partly by funds received from penalty fees, to include but not be limited to, certificate of need penalty fees assessed on hospitals under the provisions of KRS 216B.131 and any fines paid by nurses under the provisions of KRS 314.991. These funds shall be matched by the cabinet.

(2) Any individual accepted for a nursing scholarship provided for under this Act, shall, upon completion of the nursing program, be required by contract to practice in a hospital directly funding the scholarship program on a one (1) year of service owed per one (1) year of education received. The contract shall include such terms and conditions to carry out the purpose and intent of this Act and shall be signed by the cabinet secretary, the sponsoring hospital administrator and the applicant.

(3) The cabinet may cancel any contract between it and any applicant upon any cause deemed sufficient by the cabinet. Refusal to comply with the contract may constitute grounds for revocation of nursing licenses as set forth in KRS Chapter 314.

The Committee Substitute to **HB 868** is as follows:

HB 868, AN ACT relating to nursing providing for the creation and operation of a scholarship fund to be known as the Kentucky Nursing Incentive Scholarship Fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Nursing Incentive Scholarship Fund.

(2) It is the intent of the general assembly of the Commonwealth of Kentucky to alleviate the shortage of nurses within the Commonwealth; further it is the intent of the general assembly to give preference for these scholarships to low-income, unemployed residents and licensed practical nurses of the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) The board shall make nursing scholarships in two (2) and four (4) year nursing degree programs available to persons through the Kentucky nursing incentive scholarship fund, as set forth by this Act and by administrative regulations of the board.

(2) The board shall administer the Kentucky nursing incentive scholarship fund. The board shall be responsible for receiving and evaluating all applications for the scholarship made by persons who are bona fide residents of the Commonwealth and who desire to become registered nurses. The board shall evaluate each application to determine if the applicant complies with criteria for such scholarships as set forth in this Act and in administrative regulations of the board.

(3) Applications from all persons determined to be qualified shall be forwarded to the advisory council of the board, which shall designate the persons to receive assistance and the amount thereof. Decisions of the advisory council in these matters shall be final. Disbursement of funds shall be pursuant to written contract between the board and the applicant.

(4) The board shall be responsible for contracting with nursing schools, both public and private, for the admission of approved students and enforcement of contracts entered into pursuant to this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 314 IS CREATED TO READ AS FOLLOWS:

(1) Funding for the Kentucky nursing scholarship incentive fund shall be supplied partly by funds received from penalties, to include but not be limited to, certificate of need penalties assessed on hospitals, skilled and intermediate care nursing homes under the provisions of KRS 216.560 and 216B.131(2).

(2) Additional funding shall be provided by an assessment of five dollars ($5) to be added to each nurse licensure renewal application fee payable to the board, proceeds of which shall be allocated to the Kentucky nursing scholarship incentive fund. At least twenty-five percent (25%) of said proceeds shall be earmarked for financial assistance to licensed practical nurses seeking registered nurse licensure, whether in a two (2) or four (4) year program.

(3) Any individual accepted for a nursing scholarship provided for under this Act, shall, upon completion of the nursing program, be required by contract to practice as a registered nurse in a Kentucky health care facility for one (1) year for each academic year of education received. The contract shall include such terms and conditions specified by the board to carry out the purpose and intent of this Act and shall be signed by the board president and the applicant.

(4) The board may cancel any contract between it and any applicant upon failure by the applicant to meet requirements of this Act or board administrative regulations. Failure to complete the terms of the contract shall subject the applicant to legal action for the recovery of all assistance provided, together with attorney fees and interest at a compound rate of eight percent (8%) from the date of disbursement from the nursing scholarship incentive fund.

Section 4. KRS 216.560 is amended to read as follows:

(1) Where a licensee has failed to correct a type A violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of five hundred dollars ($500) for each day that such deficiency continues beyond the date specified for correction. Application for an extension of time, not to exceed ten (10) days, may be granted by the cabinet upon a showing by the licensee that adequate arrangements have been made to protect the health and safety of the residents.

(2) Where a licensee has failed to correct a type B violation within the time specified for correction by the cabinet, the cabinet shall assess the licensee a civil penalty in the amount of two hundred dollars ($200) for each day that such deficiency continues beyond the date specified for correction.

(3) The civil penalties authorized by KRS 216.537 to 216.590 shall be trebled when a licensee has received a citation for violating a statute or regulation which it has received a citation for and paid a fine for during the previous twelve (12) months.

(4) Payment of penalties shall not be made from moneys used for direct patient care nor shall the payment of penalties be a reimbursable cost under Medicaid or Medicare.

(5) KRS 216B.990(3) shall not apply to the offenses defined herein.

(6) All administrative fines collected by the cabinet pursuant to KRS 216.537 to 216.590 shall be deposited in *the Kentucky nursing incentive scholarship fund* [~~a trust and revolving fund, which is hereby created, and the balance of said fund shall lapse at the end of the fiscal year to the general fund~~].

Section 5. KRS 216B.131 is amended to read as follows:

(1) All moneys derived from applicants seeking certificates of need or licenses or from any other sources connected with this chapter shall be promptly paid over to the state treasurer, who shall deposit such moneys in a special fund which, in addition to appropriated funds, shall be used to carry out the purposes of this chapter and for no other purpose.

(2) Any fine imposed for the violation of this chapter shall, when collected, be paid into the *Kentucky nursing incentive scholarship* [~~general~~] fund.

The Committee Amendment No. 1 to **HB 868** is as follows:

Amend printed copy of HCS for **HB 868** on page 2, line 26,

After "*216B.131(2).*" by inserting the following:

"*These funds shall be matched by hospitals or long-term care facilities participating in the scholarship fund program.*"

HB 968, AN ACT relating to the practice of chiropractic.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

(1) In addition to the other powers granted to the board under this chapter, the board may, in connection with any person whom the board, after a hearing adjudges unqualified or whom the board, after a hearing, finds to have performed one or more of the acts described in KRS 312.150:

(a) Revoke the license to practice;

(b) Suspend the license to practice for a period not to exceed three (3) years;

(c) Publicly reprimand or censure the person;

(d) Place the person on probation for a period and upon the terms and conditions that the board may prescribe; and

(e) Require payment of all costs of proceedings resulting in the disciplinary action.

(2) The board may also impose a civil penalty not exceeding one thousand dollars ($1,000) for each separate violation, the amount of the civil penalty to be fixed so as to deprive the doctor of chiropractic of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding.

(3) A licensee subject to any disciplinary proceeding under this chapter shall be afforded all procedural rights and may appeal any action of the board to the Franklin Circuit Court as set out in KRS 312.160.

SECTION 2. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

(1) The board shall appoint a peer review committee not to exceed five (5) doctors of chiropractic licensed under this chapter, none of whom are in direct business relationship with the provider, insurer, or patient whose case is being reviewed. Members of the peer review committee shall serve at the pleasure of the board.

(2) Peer review shall occur upon submission by a patient, the patient's representative, insurer, or chiropractor, in accordance with the procedures and fees approved by the board, of an inquiry about a treatment rendered to a patient by a chiropractor. The peer review committee shall examine each inquiry submitted to it and shall report its findings to the board and furnish copies of the findings to the patient, chiropractor, and third-party payor. The findings of the peer review committee on each inquiry reviewed may include a determination of whether or not the chiropractor properly utilized services and rendered or ordered appropriate treatment or services and whether or not the cost of the treatment was unconscionable.

SECTION 3. A NEW SECTION OF KRS CHAPTER 312 IS CREATED TO READ AS FOLLOWS:

Members of the board, its employes and members of the peer review committee acting in good faith on an informed basis shall be immune from personal civil liability.

Section 4. KRS 312.015 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Kentucky state board of chiropractic examiners;

(2) Subject to the limitations of subsection (4) of this section "chiropractic" means the science of diagnosing and adjusting the subluxations of the articulations of the human spine and its adjacent tissues;

(3) Subject to the limitations of subsection (4) of this section "chiropractor" means one qualified by experience and training and licensed by the board to diagnose his patients and to treat those of his patients diagnosed as having diseases or disorders relating to subluxations of the articulations of the human spine and its adjacent tissues by indicated adjustment of those subluxations and by applying methods of treatment designed to augment those adjustments. The terms "chiropractic," "doctor of chiropractic" and "chiropractor" shall be synonymous, and shall be construed to mean a practitioner of chiropractic as defined in this section.

(4) *"Peer review" means an evaluation, based upon generally accepted standards, by a peer review committee established in Section 2 of this Act, of the appropriateness, quality, utilization, and cost of health care and health service provided to a patient.*

(5) The practice of chiropractic does not include the practice of medicine or osteopathy as defined in KRS 311.550, the practice of podiatry as defined in KRS 311.380, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice as a nurse as defined in KRS 314.011, or the practice of pharmacy by persons licensed and registered under KRS 315.050.

Section 5. KRS 312.017 is amended to read as follows:

(1) No chiropractor shall:

(a) Treat or attempt to treat contagious or communicable diseases;

(b) Treat or attempt to treat cancer;

(c) Treat by use of x-ray or radiological methods;

(d) Perform surgery;

(e) Treat or attempt to treat by use of acupuncture; or

(f) Administer prescription drugs or controlled substances.

(2) *Subject to the limitations in this chapter, a chiropractor shall examine, diagnose and treat the human body by methods taught in accredited chiropractic colleges as stated in KRS 312.085. A chiropractor may refer a patient to a physician, licensed medical laboratory or licensed health facility for testing or examination to aid in differential diagnosis or treatment.*

(3) No chiropractor shall otherwise treat a patient for any disorder or by any method except as provided in *this chapter* [~~KRS 312.015(3)~~]. *Patients diagnosed as having a disease or disorder outside the chiropractic scope of practice shall be referred by the chiropractor to a medical doctor or other licensed health practitioner for treatment of that condition.*

Section 6. KRS 312.019 is amended to read as follows:

(1) The board shall administer the provisions of this chapter and the administrative regulations of the board relating to the practice of chiropractic.

(2) The board shall pass upon the qualifications of applicants for a license, certification or registration to practice chiropractic. It shall examine, license, certify, register and renew the license, certification or registration of duly qualified applicants.

(3) The board may deny, revoke, refuse to renew or suspend any license, certification or registration issued by it.

(4) The board shall adopt a seal which shall be affixed to all licenses, certifications and registrations issued by the board and to such other documents as the board deems necessary.

(5) The board shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the rules and regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations of the board.

(6) The board may employ such personnel and incur such expenses as may be necessary for the performance of its duties and the enforcement of this chapter.

(7) The board may prescribe and collect reasonable fees for the issuance and renewal of licenses, certifications and registrations and the administration of examinations as provided in KRS 312.095, 312.105 and 312.175.

(8) The board may inspect at all reasonable times any chiropractic office or place where chiropractic services are performed.

(9) The board may adopt and from time to time amend administrative regulations, consistent with the provisions of this chapter and in accordance with the provisions of KRS Chapter 13, governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter and the proper performance of its duties, including but not limited to:

(a) A code of ethical conduct governing the practice of chiropractic;

(b) Requirements, standards and examinations to determine the moral, physical, intellectual, educational, scientific, technical and professional qualifications of applicants for licenses and certifications;

(c) Matters pertaining to the content and conduct of examinations;

(d) Matters pertaining to the operation and registration of chiropractic clinics;

(e) Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic;

(f) The type and character of postgraduate study to be done by any licensee in order to comply with the provisions of KRS 312.175;

(g) Regulate forms of advertising or solicitation that are false, misleading or deceptive or otherwise in violation of this chapter. The board may require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising proposing or offering a series or course of treatments.

(h) Establish a recommended course of pre-chiropractic education to be completed prior to entry into chiropractic college and the establishment of a preceptorship program for students enrolled in accredited chiropractic colleges that conform to KRS 312.085 to meet the standards of accreditation of the council on chiropractic education.

Section 7. KRS 312.085 is amended to read as follows:

(1) Any persons desiring to practice chiropractic in this state, shall make application to the board, through its executive secretary, in such form and in such manner as may be required by the board, at least *thirty (30)* [~~twenty (20)~~] days prior to any meeting held for examinations by the board. Each applicant shall have satisfactorily completed not less than sixty (60) semester credit hours of study from a college or university accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges and universities or any successor to the powers of either and is a graduate of *an accredited* [~~a~~] chiropractic college accredited by the [~~association of chiropractic colleges or the~~] council on chiropractic education or their successors, and which maintains a standard and reputability approved by the board.

(2) The board may by regulation recommend a two-year pre-chiropractic course of instruction to be completed prior to entry into chiropractic college. The board may by regulation establish a preceptorship program where students or graduates of accredited chiropractic colleges as stated in KRS 312.085 may work with and under the direction and supervision of a licensed doctor of chiropractic prior to the taking of the appropriate licensing examination.

(3) Applications shall be made and signed in applicant's own handwriting, and shall be sworn to and before an officer authorized to administer oaths, and shall recite the history of the applicant as to his educational advantages, his experience in matters pertaining to knowledge of the care of the sick, his length of study of chiropractic, what collateral branches he has studied, the length of time he has been engaged in clinical practice, accompanying same with a diploma, or diplomas awarded to applicant by a college or colleges in which such studies were pursued. Certificates of attendance from the college or colleges from which he is a graduate, stating dates of matriculation, graduation, and number of months and hours in attendance shall accompany the application, with satisfactory evidence of good character and reputation.

Section 8. KRS 312.095 is amended to read as follows:

There shall be paid to the executive secretary of the board by each applicant at the time of his application for a license, a fee not to exceed *two hundred dollars ($200)* [~~one hundred dollars ($100)~~], which shall include the examination fee.

Section 9. KRS 312.115 is amended to read as follows:

(1) Examination for a license to practice chiropractic shall be made by the board according to the method deemed by it to be the most practicable and expeditious to test the applicants' qualifications. Examination papers shall be designated by number, and not by name of applicant, so that the identity of the applicant will not be disclosed to members of the board until after the examination papers are graded.

(2) The examination shall consist of a written test including questions of essay or objective type designed to measure the applicants' knowledge of the subjects of anatomy, physiology, pathology, neurology, histology, hygiene,-bacteriology, chemistry, chiropractic orthopedics, diagnosis, the use and effects of x-ray and chiropractic principles and practices as taught in chiropractic schools and colleges. *The national board tests of the national board of chiropractic examiners may be accepted as a part or all of the written examination.* A portion of *the licensing* [~~said~~] examination shall consist of a practical demonstration of clinical competency to be evaluated by the board by such methods as it may designate prior to the examination.

Section 10. KRS 312.150 is amended to read as follows:

(1) Charges may be preferred by the board against the holder of a license to practice chiropractic in this state on any of the following grounds:

(a) That fraud or deceit was used in securing such license;

(b) That the licensee no longer possesses a good moral character;

(c) That the licensee has been convicted of a violation of any law involving moral turpitude;

(d) That the licensee solicits patients through an agent;

(e) That the licensee is addicted to the use of narcotic drugs or is a chronic alcoholic;

(f) That the licensee is in any way guilty of any deception, misrepresentation, fraud or unethical conduct in the practice of chiropractic;

(g) That the licensee has violated any of the provisions of this chapter, or any of the rules and regulations of the board*; or*

(h) That the licensee failed to attend and complete annual continuing chiropractic education courses as provided in KRS 312.175.

(2) Unprofessional conduct shall include any departure or the failure to conform to the minimal standards of acceptable chiropractic practice or the willful or careless disregard for the health, welfare or safety of patients, in any of which cases proof of actual injury need not be established. Unprofessional conduct shall include, but not be limited to, the following acts of a chiropractor:

(a) Gross ignorance of, or incompetence in, the practice of chiropractic;

(b) Performing unnecessary services;

(c) Charging a patient an unconscionable fee or charging for services not rendered;

(d) Directly or indirectly engaging in threatening, dishonest, or misleading fee collection techniques, including having patients enter into a contract for a course of treatment.

(e) Perpetrating fraud upon patients, third-party payors, or others, relating to the practice of chiropractic, including violations of the federal medicare law;

(f) Advertising that the licensee will accept for services rendered assigned payments from any third-party payor as payment in full, if the effect is to give the impression of eliminating the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan; or advertising a fee or charge for a service or treatment different from the fee or charge the licensee submits to a third-party payor for that service of treatment. The licensee shall attach to any claim form submitted to any third-party payor a copy of any coupon or a summary of the terms of any discount given; or

(g) Accepting for services rendered assigned payments from any third-party payor as payment in full, if the effect is to eliminate the need for payment by the patient of any required deductible or copayment applicable in the patient's health benefit plan, or collecting a fee or charge the licensee submits to a third-party payor for that service or treatment. However, in instances where the intent is not to collect excessive remuneration from a third-party payor but rather to provide services at a reduced rate to a patient unable to afford the deductible or copayment, the services may be performed for a lesser charge or fee. The third-party payor shall be informed by the licensee of the reduced charge.

(3)[~~(2)~~] Upon receipt and due consideration of such charges, the board upon an affirmative vote of a majority of its members shall determine whether the nature and quality of the charges are such that further investigation

or initiation of formal or informal disciplinary proceedings against the charged licensee is indicated. If the board determines that disciplinary proceedings are appropriate the charges shall be set down for hearing at a future meeting of the board, and the charged licensee shall be notified of this action in writing and shall be furnished a copy of said charges at least twenty (20) days before the date set for the hearing.

(4)[~~(3)~~] No license shall be revoked or suspended without a hearing. The board may at any time proceed against a licensee on its own initiative either on the basis of information contained in its own records or on the basis of information obtained through its informal investigation. When a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization and containing allegations that if true would warrant suspension or revocation of a license, the board shall proceed against the licensee within three (3) months.

(5)[~~(4)~~] A written notice stating grounds for possible suspension or revocation of the license, setting forth with reasonable particularity the facts constituting the alleged offense and the time and place of the hearing before the board on the charges, shall be served on the charged licensee not less than twenty (20) days prior to the date of the hearing either personally or by mailing a copy thereof by certified mail, return receipt requested to the address of the licensee last known to the board.

Section 11. KRS 312.175 is amended to read as follows:

(1) All persons who are now or may hereafter be licensed to practice chiropractic in this state shall, on or before the first day of March, annually hereafter renew his or her license and pay a renewal fee of not more than *one hundred dollars ($100)* [~~thirty dollars ($30.00)~~] each year to the board; Provided That, in addition to the payment of such renewal fee, such licensee so applying for a license renewal shall furnish to the board satisfactory evidence that he or she has attended an educational program in the year preceding each such application for renewal. Satisfactory evidence of attendance of post graduate study at an institution approved by the board shall be considered equivalent. Provided, however, That licenses may be renewed by the board, at its discretion, and the applicant may be excused from paying the renewal fee or attending the annual educational program or both in instances where the the applicant submits an affidavit to the board evidencing that he or she, for good cause assigned, suffered a hardship which prevented the applicant from renewing the license or attending the educational program at the proper time.

(2) The executive secretary of the board shall send a written notice to every person holding a valid license to practice chiropractic within this state at least thirty (30) days prior to the first day of March in each year, directed to the last known address of the licensee, and shall enclose with the notice proper blank forms for application for annual license renewal. The executive secretary shall, within thirty (30) days, notify every person failing to renew his license after it is due that he is delinquent. Failure of any such licensee to renew his license on the next annual renewal date shall constitute sufficient grounds for the board to revoke his license. Any licensee whose license has been revoked for not more than four (4) years for failure to renew his license may have his license restored upon the payment of a restoration fee not to exceed *one hundred dollars ($100)* [~~fifty dollars ($50.00)~~] for each delinquent year or any part thereof in addition to the renewal fee of not more than *one hundred dollars ($100)* [~~thirty dollars ($30.00)~~] and upon presentation of satisfactory evidence of post graduate study of a standard approved by the state board or upon a showing that he is an exception as provided for in subsection (1) of this section. Any licensee whose license has been revoked for more than four (4) years for failure to renew his license may have his license restored after satisfactorily passing the examination as provided in KRS 312.115 and upon payment of the regular application fee.

The Committee Amendment No. 1 to **HB 968** is as follows:

Amend printed copy of **HB 968** on page 4, line 7,

By inserting after "*cost of*" the word "*chiropractic*"

On page 5, line 4,

By inserting after the word "*body*" the following: "*within the scope of chiropractic as defined in KRS 312.015 and 312.017 and*"

And on page 5, line 8,

By adding after "*treatment.*" The following "*However, nothing contained herein shall require any licensed health care provider to accept such a referral.*"

And on page 5, line 11,

By deleting the words "*Patients diagnosed as*" and inserting in lieu thereof "*Chiropractic patients whose diagnosis is not within the*"

And on page 5, line 12,

By deleting the words "*having a disease or disorder outside*"

And on page 5, line 13,

By inserting after the word "*practice*" the following: "*, as defined in KRS 312.015 and 312.017,*"

The Committee on Judiciary-Civil reported **HB 314** with Committee Amendments attached thereto, **HB 803**, **HB 842**, **HB 889** and **HCR 116** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 314, AN ACT relating to limitation of actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

Agreements entered into in good faith and at arms length to extend or modify limitations periods for the filing of civil actions, including agreements entered into prior to the effective date of this Act, shall be valid and enforceable according to their terms.

The Committee Amendment No. 1 to **HB 314** is as follows:

Amend printed copy of **HB 314** on page 1, line 3, delete "*Agreements*" and insert in lieu thereof "*Written agreements*".

The Committee Amendment No. 2 to **HB 314** is as follows:

Amend printed copy of **HB 314** on page 1, line 4, delete "*or modify*".

HB 803, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Buyer" has the meaning set forth in KRS 190.090(6);

(2) "Retail instalment contract" has the meaning set forth in KRS 190.090(3);

(3) "Direct loan agreement" means an agreement between a lender and a purchaser whereby the lender has advanced funds pursuant to a loan secured by the motor vehicle which the purchaser has purchased;

(4) "Lease contract" means a contractual arrangement descr

(5) "Motor vehicle" has the meaning set forth in KRS 190.090(4);

(6) "Person" has the meaning set forth in KRS 190.010(19);

(7) "Purchaser" has the meaning set forth in KRS 355.1-201(33);

(8) "Security agreement" has the meaning set forth in KRS 355.9-105(1)(l);

(9) "Secured party" has the meaning set forth in KRS 355.9-105(1)(m);

(10) "Security interest" has the meaning set forth in KRS 355.1-201(37); and

(11) "Seller" has the meaning set forth in KRS 190.090(5), and includes the present holder of the retail instalment contract.

SECTION 2. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) A person shall be deemed to engage in an act of unlawful assignment or subleasing of a motor vehicle if all of the following conditions are met:

(a) The motor vehicle is subject to a lease contract, retail instalment contract, direct loan agreement or security agreement the terms of which prohibit the transfer or assignment of any right or interest in the motor vehicle or under the lease contract, retail instalment contract, direct loan agreement or security agreement;

(b) The person is not a party to the lease contract, retail instalment contract, direct loan agreement or security agreement;

(c) The person transfers or assigns, or purports to transfer or assign, any right or interest in the motor vehicle or in the lease contract, retail instalment contract, direct loan agreement or security agreement, to any person who is not a party to the lease contract, retail instalment contract, direct loan agreement or security agreement;

(d) The person does not obtain, prior to the transfer or assignment described in paragraph (c) of this subsection, written consent to the transfer or assignment from the motor vehicle's lessor, seller, or secured party; and

(e) The person receives compensation or some other consideration for the transfer or assignment described in paragraph (c) of this subsection.

(2) A person shall be deemed to engage in an act of unlawful assignment or subleasing of a motor vehicle when the person is not a party to the lease contract, retail instalment contract, direct loan agreement or security agreement, and assists, causes, or arranges an actual or purported transfer or assignment, as described in subsection (1) of this section.

(3) This section shall not affect the enforceability of any lease contract, retail instalment contract, security agreement, or direct loan agreement by any party thereto.

SECTION 3. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Any one (1) or more of the following who suffers any damage proximately resulting from one (1) or more acts of unlawful motor vehicle assignment or subleasing, as described in Section 2 of this Act, may bring an action against the person who has engaged in those acts:

(a) A seller or other secured party under a retail instalment contract or a security agreement;

(b) A lender under a direct loan agreement;

(c) A lessor under a lease contract;

(d) A buyer under a retail installment contract;

(e) A purchaser under a direct loan agreement, an agreement which provides for a security interest, or an agreement which is equivalent to these types of agreements;

(f) A lessee under a lease contract; or

(g) An actual or purported transferee or assignee of any right or interest of a buyer, a purchaser, or a lessee.

(2) The court in an action under subsection (1) of this section may award:

(a) Actual damages;

(b) Equitable relief, including, but not limited to, an injunction and restitution of money and property;

(c) Punitive damages;

(d) Reasonable attorneys' fees and costs; and

(e) Any other relief which the court deems proper.

(3) The rights and remedies provided in this section shall be in addition to any other rights and remedies provided by law.

Section 4. KRS 190.990 is amended to read as follows:

(1) Any person who violates or causes, aids or abets any violation of any provision of KRS 190.010 to 190.080 or any order, rule or regulation lawfully issued pursuant to authority granted by KRS 190.010 to 190.080 shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500), or imprisoned for not more than thirty (30) days, or both. Any person who violates paragraphs (l), (m) or (n) of subsection (1) of KRS 190.040 may also be subject to a suspension or revocation sentence of not more than a year effective only in the territory formerly served by the unfairly canceled dealer, except that in a metropolitan area serviced by several dealers handling the same motor vehicle, the suspension or revocation order shall not be applicable to the remaining dealers.

(2) Any person who willfully and intentionally violates any provision of KRS 190.090 to 190.140 shall be guilty of a misdemeanor and upon conviction shall be punished by a fine not exceeding five hundred dollars ($500).

(3) A willful violation of KRS 190.100 or 190.110 by any person shall bar his recovery of any finance charge, delinquency or collection charge on the retail instalment contract involved.

(4) Any person who willfully violates KRS 190.270 to 190.320 shall be subject to a penalty of five thousand dollars ($5,000) per violation, which may be recovered on behalf of the Commonwealth by the attorney general.

(5) Any person who engages in the act of unlawful assignment or subleasing of a motor vehicle as described in Section 1 of this Act is guilty of a Class D felony.

HB 842, AN ACT relating to liens upon real property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 426 IS CREATED TO READ AS FOLLOWS:

A final judgment for the recovery of money or costs in the courts of record in this Commonwealth, whether state or federal, shall act as a lien upon all real estate in which the judgment debtor has any ownership interest, *in any county in which the following first shall be done:*

(1) The judgment creditor or his counsel shall file with the county clerk of any county a notice of judgment lien containing the court of record entering the judgment, the civil action number of the suit in which the judgment was entered, and the amount of the judgment, including principal, interest rate, court costs, and any attorney fees;

(2) The county clerk shall enter the notice in the lis pendens records in that office, and shall so note the entry upon the original of the notice;

(3) The judgment creditor or his counsel shall send to the last known address of the judgment debtor, by regular first class mail, postage pre-paid, or shall deliver to the debtor personally, a copy of the notice of judgment lien which notice shall include the text of KRS 427.060 and also the following notice, or language substantially similar:

"Notice to Judgment Debtor. You may be entitled to an exemption under KRS 427.060, reprinted below. If you believe you are entitled to assert an exemption, seek legal advice."; and

(4) The judgment creditor or his counsel shall certify on the notice of judgment lien that a copy thereof has been mailed to the judgment debtor in compliance with the foregoing subsection.

HB 889, AN ACT relating to statutory liens.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 376.430 is amended to read as follows:

(1) All persons, firms and corporations engaged in the business of repairing radios, phonographs, combinations thereof, automatic music instruments, refrigerators, *televisions, electrical or electronic recording devices*, and any and all portable electrical *or electronic* instruments or appliances shall have a lien upon such articles and appliances for the agreed or reasonable charge for parts, supplies, accessories and labor performed in their repair, said lien to attach upon completion of such repairs. *The lien may be enforced by legal action or as hereafter provided.*

(2) After completion of repairs the owner shall be notified thereof by certified mail, return receipt requested or by registered mail, and if the repaired article be not removed and all charges paid within 30 days after giving the notice, the person, firm or corporation making such repairs may hold such repaired articles and sell same at public *or bona fide private* sale to pay all agreed or reasonable charges, including charges for storage after notice of completion of repairs, and expenses incidental to advertisement and sale, accounting to the owner for any excess of charges and expenses.

(3) Before any sale of the repaired article the person, firm or corporation making the repairs shall *notify the owner of the article of the time and place of the sale* [~~advertise the sale by publication pursuant to KRS chapter 424~~]. *The notice may be served by certified mail, return receipt requested, or by registered mail directed to the owner's last known address, or, if the owner or his address is unknown, notice of the sale shall be published pursuant to KRS Chapter 424.*

HCR 116, A CONCURRENT RESOLUTION establishing a Family Law Task Force.

WHEREAS, the law pertaining to marriage, the dissolution of marriage, disposition of marital property, spousal maintenance, child custody, support and visitation has a profound effect upon the institution of the family; and

WHEREAS, this family law has not undergone comprehensive review since 1972;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission is directed to appoint a task force, the purpose of which shall be to examine, during the 1988-89 interim the law pertaining to marriage, the dissolution of marriage, disposition of marital property, spousal maintenance and child custody, support and visitation.

Section 2. That the task force shall consist of ten (10) members: five (5) members of the General Assembly; three (3) judges, one (1) each from the district court, circuit court and court of appeals; the director of the administrative office of the courts and the director of the division of child support enforcement of the cabinet for human resources.

Section 3. That the findings and conclusions of the task force, including legislation which it may recommend or prefile, shall be reported to the Legislative Research Commission on or before September 1, 1989.

Section 4. That staff services in support of the task force are estimated to be $20,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

Motions, Petitions and Communications (continued)

Representative Will moved the adoption of the following **HR 158**:

HR 158, A RESOLUTION honoring Wendell Barry Stevens, Kentucky Artist.

WHEREAS, from January 5, 1988 through February 19, 1988, the Kentucky General Assembly and the Kentucky Department of the Arts had the honor of presenting "Kentucky Places," an exhibition of Kentucky artists, shown in the recently dedicated Margaret Willis Room; and

WHEREAS, the twelve Kentucky artists participating in the "Kentucky Places" inaugural exhibition were chosen for their unique artistic excellence in promoting creative expression; and

WHEREAS, this honorable body was pleased to have Wendell Barry Stevens as an exhibitor in "Kentucky Places" and wishes him continued success in all future endeavors;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives expresses its deep appreciation to Wendell Barry Stevens for participating in the "Kentucky Places" art exhibition.

Section 2. That the Clerk of the House of Representatives be directed to transmit a copy of this resolution to Mr. Wendell Barry Stevens, 1811 Tyler Parkway, Louisville, Kentucky, 40204.

HR 158 was adopted by voice vote.

Representative Riner moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Riner moved the adoption of the following **HR 159**:

HR 159, A RESOLUTION adjourning the House of Representatives in honor of Barry Bingham, Sr., with hope for his speedy recovery.

WHEREAS, Barry Bingham, Sr. is recognized for his high standards, lofty principles and persistent commitment to ethics and truth in journalism and as a consequence thereof, the Courier-Journal is considered one of the top ten newspapers in the United States; and

WHEREAS, throughout his life, Barry Bingham, Sr. has been an international leader in championing the cause of world press freedom; and

WHEREAS, Barry Bingham, Sr. has been a national leader in furthering the movement for civil rights and social justice for all Americans; and

WHEREAS, he has given outstanding leadership in the defense of first amendments rights and the public's "right to know"; and

WHEREAS, no Kentuckian has demonstrated greater commitment toward supporting the arts and helping the Commonwealth earn an international reputation for cultural activities; and

WHEREAS, Barry Bingham, Sr. has been a central figure in supporting the cause of mental health in Kentucky; and

WHEREAS, his example and devotion as father and grandfather has inspired a family of citizens dedicated to improving the quality of life for fellow Kentuckians; and

WHEREAS, he has distinguished himself as a Kentucky leader who has made a difference for the poor and disenfranchised;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That on behalf of this body and on behalf of all Kentuckians, best wishes and appreciation are extended to Barry Bingham, Sr.

Section 2. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky expresses its concern that Barry Bingham, Sr. has a speedy recovery from his illness.

Section 3. That the House of Representatives of the General Assembly of the Commonwealth of Kentucky extends its best wishes and support for the family members of Barry Bingham, Sr. during his recuperation.

Section 4. That when the House of Representatives adjourns this day, March 11, 1988, it does so in honor of Barry Bingham, Sr.

Section 5. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution along with the sponsor's cover letter to his wife Mrs. Mary Caperton Bingham, Glenview, Kentucky, 40025, and to his children, Mr. Barry Bingham, Jr., Glenview, Kentucky, 40025, Ms. Eleanor Bingham Miller, 2320 Meidinger Tower, Louisville, Kentucky, 40202, and Ms. Sallie Bingham, 8217 Wolf Pen Branch Road, Prospect, Kentucky, 40059.

HR 159 was adopted by voice vote.

Representative Geveden moved that **HB 773** be withdrawn. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on **HB 505**. Agreed.

Representative Blevins moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Blevins moved that his vote be changed from "nay" to "yea" on **HB 597**. Agreed.

Representative T. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative T. Jones moved that his vote be changed from "nay" to "yea" on **HB 503**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 4 to **HB 1**, by Representative Guenthner:

Amend printed copy of **HB 1** on page 1, after line 14, by inserting the following:

(3) The General Assembly shall, by general law, provide a means whereby the sense of the people of any city, county or urban-county government may be taken, as to whether or not gambling, lotteries or gift enterprises shall be permitted therein, or the operation thereof regulated. All elections on this question may be held on a day other than the regular election days.

Floor Amendment No. 1 to Committee Substitute to **HB 310**, by Representative Maggard:

Amend printed copy of Committee Substitute to **HB 310** on page 9, after line 19, by inserting the following:

"Section 3. KRS 151.310 is amended to read as follows:

No person, city, county, or other political subdivision of the state shall deposit or cause to be deposited any matter that will in any way restrict or disturb the flow of water in the channel or in the floodway of any stream [~~except where a permit has been issued for construction under KRS 151.250,~~] or to encroach on the reservoir area of any dam authorized by the congress of the United States, or under the jurisdiction of the Commonwealth, or any of its political subdivisions "*, except where a permit has been issued for construction under KRS 151.250*".

Floor Amendment No. 1 to Committee Substitute to **HB 584**, by Representative Lear:

Amend printed copy of Committee Substitute to **HB 584** on page 1, line 18, by deleting "*(a) Persons*" and inserting in lieu thereof, "*Beginning on the effective date of this Act, persons*"; and

On page 2, line 4, by deleting the comma "," after the word "*compounded*" and inserting in lieu thereof a period "." and by deleting the rest of that line in its entirety; and

On page 2, lines 5-26, by deleting them in their entirety; and

On page 3, lines 1-15, by deleting them in their entirety; and

On page 4, line 16, by deleting all brackets and strike-throughs on that line; and

On page 4, line 17, by deleting all brackets and strike-throughs on that line; and

On page 5, line 1, by deleting "*(a) A*" and inserting in lieu thereof, "*Beginning on the effective date of this Act, a*"; and

On page 5, line 7, by inserting a period "." after the word "*compounded*" and deleting the remainder of that line in its entirety; and

On page 5, lines 8-26, by deleting them in their entirety; and

On page 6, lines 1-26, by deleting that page in its entirety; and

On page 7, line 1, by deleting that line in its entirety.

Floor Amendment No. 1 to **HB 649**, by Representative Lear:

Amend printed copy of **HB 649** on page 7, lines 18 through 26, to delete the same; and

On page 8, lines 1 through 26, to delete the same; and

On page 9, lines 1 through 8, to delete the same.

Floor Amendment No. 1 to **HB 684**, by Representative Mason:

Amend printed copy of **HB 684** on page 4, following line 8, by inserting the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 146 IS CREATED TO READ AS FOLLOWS:

Where the acquisition or dedication of less than a fee simple estate in land is proposed, and the mineral estate is severed from the surface, the consent of the owner of the mineral estate shall be provided to the commission prior to approval of the acquisition or dedication."

And on line 9, changing "3." to "4.".

Floor Amendment No. 1 to **HB 788**, by Representative Richards:

Amend printed copy of **HB 788** on page 1, line 15, by deleting "*1988*" and by deleting the brackets and strike throughs of "1986"; and

on page 1, line 18, by deleting "*forty-five hundredths percent (2.45%)*" and by deleting the opening bracket and the strike throughs; and

on page 1, line 19, by deleting the closing bracket and the strike throughs; and

on page 1, line 21, by deleting "*or*"; and

on page 2, line 1, by deleting "*Kentucky employes retirement system*"; and

on page 5, line 20, by inserting after "*(2%)*" the words "*for the county employes retirement system and one and nine-tenths percent (1.90%) for the Kentucky employes retirement system*".

Floor Amendment No. 1 to **HB 935**, by Representative Reinhardt:

Amend printed copy of **HB 935** on page 4, line 23, by deleting "*two*" and by substituting therefor "*three*"; and

on page 4, line 24, by deleting "*(2)*" and by substituting therefor "*(3)*"; and

on page 4, line 25, by deleting "*one (1) director*" and by substituting therefor "*two (2) directors*".

The Clerk announced the following meetings:

The Committee on Appropriations and Revenue, March 14. 1988, 12 Noon.

The Committee on State Government, March 15, 1988, 1:00 p.m.

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., Monday, March 14, 1988.

The motion that the House adjourn until 4:00 p.m., Monday. March 14, 1988 was adopted by voice vote.

MONDAY, MARCH 14, 1988

FORTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Malcolm G. Lunceford, Immanual Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Bronger.

Representative McElroy moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 11, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 256**, **SB 293**, **SB 308**, **SCR 83** and **HB 283** with Senate Amendment.

Message received on **HB 25**: The Senate has appointed the following members to serve on a Free Conference Committee on **HB 25**: Senators Ford, Weaver and Huff.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 425**, **HB 434** and **HJR 57** had been examined and found correctly enrolled. Said Bills and Resolution read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 4:04 p.m.)

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 177**.

Business Organizations and Professions: **SB 261**.

Education: **SB 294**, **SB 286**, **SB 281**, **SB 274**.

Health and Welfare: **SCR 82**.

Natural Resources and Environment: **SB 283**, **SB 265**.

State Government: **SB 240**.

Transportation: **SB 267**, **SB 239**, **SB 236**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Cities: **HJR 123**, **HB 838**, **HB 1011**, **HB 822**, **HB 756**.

Report of Committees

The Committee on Banking and Insurance reported **HB 565**, **HB 723**, **HB 814**, **HB 849** with Committee Substitute attached thereto, **HB 976** and **HJR 126** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 565, AN ACT relating to property and casualty insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If an applicant for property and casualty insurance is given a binder, pays the premium, and then, prior to delivery of the policy, cancels the coverage after the insurer determines that the actual premium due by the applicant is higher than that quoted to the applicant, the applicant shall be granted a refund of the premium which shall be prorated on the basis of the quoted premium paid by the applicant and not the actual premium as later determined by the insurer.

(2) The provisions of subsection (1) of this section shall not apply if the quoted premium was based on incorrect information given by the applicant.

HB 723, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer shall issue an individual health insurance policy in this state which provides coverage for more than one (1) person on an expense-incurred basis unless the policy covers adopted children of the insured on the same basis as other dependents.

(2) The coverage required by this section shall be effective from the date of placement for the purpose of adoption and shall continue unless the placement is disrupted prior to legal adoption and the child is removed from placement.

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No insurer shall issue a group or blanket health insurance policy or certificate issued thereunder in this state providing coverage on an expense-incurred basis unless the policy or certificate covers adopted children of the insured on the same basis as other dependents.

(2) The coverage required by this section shall be effective from the date of placement for the purpose of adoption and shall continue unless the placement is disrupted prior to legal adoption and the child is removed from placement.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No corporation subject to the provisions of this subtitle shall issue a contract in this state which provides hospital, medical, dental or surgical expense benefits for more than one (1) person unless the contract covers adopted children of the subscriber on the same basis as other dependents.

(2) The coverage required by this section shall be effective from the date of placement for the purpose of adoption and shall continue unless the placement is disrupted prior to legal adoption and the child is removed from placement.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) No health maintenance organization shall issue a contract in this state providing coverage for more than one (1) person unless the contract covers adopted children of the subscriber on the same basis as other dependents.

(2) The coverage required by this section shall be effective from the date of placement for the purpose of adoption and shall continue unless the placement is disrupted prior to legal adoption and the child is removed from placement.

HB 814, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-063 is amended to read as follows:

(1) Any schedule of rates or rating plan for automobile liability and physical damage insurance filed with the commissioner shall provide for an appropriate reduction in premium charges for a period of *three (3)* [~~two (2)~~] years for those insureds fifty-five (55) years of age and older who successfully complete a motor vehicle accident prevention course meeting standards set by the transportation cabinet. There shall, however, be no reduction in premiums for a self-instructed course or for a course which does not provide for classroom or field driving instruction for a minimum number of hours, to be determined by the transportation cabinet.

(2) All insurance companies writing automobile liability and physical damage insurance in Kentucky shall allow an appropriate reduction in premium charges to all eligible persons subject to this section.

(3) Upon successfully completing the approved course, each participant shall be issued by the course's sponsoring agency a certificate which shall be the basis of qualification for the discount on insurance.

(4) Each participant shall take an approved course each *three (3)* [~~two (2)~~] years to continue to be eligible for the discount on insurance.

(5) The transportation cabinet is hereby empowered to promulgate regulations setting standards for the motor vehicle accident prevention course described in subsection (1) of this section.

(6) No discount shall be available under this section to those completing the prescribed motor vehicle accident prevention course under a court order as a result of a motor vehicle conviction.

HB 849, AN ACT relating to investments by banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) Such real estate is necessary or appropriate for the transaction of legitimate business; and

(b) The cost of such real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). Such investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;

(4) Invest in the bonds of any federal home loan bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, sec. 12 U.S.C. sec. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business;

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(d) Any other obligations in which national banking associations organized under the laws of the United States are permitted to invest in directly;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

(9) Invest in:

(a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in the *county in which the bank is located or in any contiguous county* [~~bank's generally accepted banking market. For purposes of this section, "the bank's generally accepted banking market" means the geographic banking market at the time the investment is made as defined by the federal reserve bank in the federal reserve district in which the bank is located~~]. Such investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

(b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. Provided, however, that any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend such disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank;

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank; and

Investments pursuant to subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes and other such investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

The Committee Substitute to **HB 849** is as follows:

HB 849, AN ACT relating to investments by banks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.100 is amended to read as follows:

A bank may:

(1) Hold such personal property as has been transferred to it as collateral for the payment of any debt;

(2) Acquire and hold title to real estate, provided:

(a) Such real estate is necessary or appropriate for the transaction of legitimate business; and

(b) The cost of such real estate, including furniture and fixtures, shall not exceed forty percent (40%) of the total paid-in capital, unimpaired surplus and undivided profits (determined on accrual basis). Such investment may exceed the bank's forty percent (40%) limit with prior written approval of the commissioner;

(3) Acquire and hold for not longer than ten (10) years, any real estate conveyed to it in satisfaction of debts previously contracted in the course of its business, or that it may purchase under a judgment in its favor. A bank acquiring real estate in satisfaction of debts previously contracted in the course of business shall write down the acquisition at ten percent (10%) per year;

(4) Invest in the bonds of any federal home loan bank;

(5) Invest in obligations issued separately or collectively by or for federal land banks, federal intermediate credit banks and banks for cooperatives under the Act of Congress known as the Farm Credit Act of 1971, 85 Stat. 583, sec. 12 U.S.C. sec. 2001 and amendments thereto;

(6) Invest, subject to the approval of the commissioner, in the capital stock or bonds or both of any domestic realty corporation organized or existing for the sole purpose of acquiring and holding title to real property used by the bank, through lease or otherwise, for the transaction of the bank's legitimate business;

(7) Purchase, hold, and convey the shares of any open end registered investment company registered under the Investment Company Act of 1940, whose shares are registered under the Securities Act of 1933 and whose investments are limited to:

(a) Bonds or other interest bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(d) Any other obligations in which national banking associations organized under the laws of the United States are permitted to invest in directly;

(8) Purchase and hold shares of a bank service corporation as that term is used in the Bank Service Corporation Act (12 U.S.C. sec. 1861) and any amendments thereto;

(9) Invest in:

(a) Bonds or other interest-bearing obligations of the United States, or those for the payment of the principal and interest on which the faith and credit of the United States is pledged;

(b) Stocks, bonds, or other interest-bearing or dividend-yielding obligations issued or guaranteed as to the payment of principal and interest or dividend by any instrumentality presently or hereafter incorporated by authority of an Act of Congress;

(c) General obligation bonds or revenue bonds issued and guaranteed as to payment of principal and interest by any state, county or municipal governments legally authorized to issue such instruments of indebtedness;

(10) (a) Invest in other real estate in *the county in which the bank is located or any contiguous county, or in* the bank's generally accepted banking market *as defined by the bank's board of directors.* [~~For purposes of this section, “the bank's generally accepted banking market” means the geographic banking market at the time the investment is made as defined by the federal reserve bank in the federal reserve district in which the bank is located~~]. Such investment shall not exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment; and

(b) Investment in other real estate not to exceed ten percent (10%) of the bank's actual paid-in capital and surplus, calculated at the time the investment is made, for each real estate investment, if the bank has acquired the real estate in satisfaction of a debt previously contracted and the investment is for the purpose of improving the real estate for sale. Provided, however, that any real estate acquired in satisfaction of a debt previously contracted and improved by the bank shall be disposed of within five (5) years of the date of acquisition, with the commissioner authorized to extend such disposition upon written request of the bank for good cause shown on a year-to-year basis not exceeding an additional five (5) years;

(11) Own or operate a discount brokerage service either through the bank or a bona fide subsidiary of the bank;

(12) Own or operate a travel agency either through the bank or a bona fide subsidiary of the bank; and

Investments pursuant to subsections (7) and (9) of this section are subject to KRS 287.280 and 287.290. For purposes of computing the maximum investment of a bank in bonds, notes and other such investments, book value shall be used. For deep discount bonds or zero coupon bonds, accreted book value shall be used.

HB 976, AN ACT relating to the municipal premium tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 91A.080 IS REPEALED, REENACTED AND AMENDED TO READ AS FOLLOWS:

(1) The legislative body of each city or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective January 1 or July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least sixty (60) days prior to the effective date, a copy of all ordinances and amendments thereto which impose any such license fee or tax. The commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities or urban-county governments which have elected to impose such license fees or taxes and the current amount of such license fee or rate of tax.

(2) Any license fee or tax imposed by such a city or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of such premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of such city or urban-county government.

(3) Any license fee or tax imposed by such a city or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by such company within each calendar quarter on risks located within the corporate limits of the city or urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the worker's compensation act.

(4) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(5) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(6) Upon written request of the legislative body of any city or urban-county government, at the expense of the requesting city or urban-county government, which shall be paid in advance by such city or urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(7) The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually by March 31 each insurer shall furnish each city or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(8) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city or urban-county government is separate of penalties provided for in subsection (6) of this section. No city or urban-county government may impose any penalties other than those provided for in this subsection.

(9) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employes under KRS 18A.225(2) *and 1988 Acts Chapter 5, Section 1*.

HJR 126, A JOINT RESOLUTION directing the Kentucky Housing Corporation to collect and evaluate data about the statewide availability and adequacy of housing, including publicly assisted housing programs and units, for low-income residents of Kentucky.

WHEREAS, the low income housing supply is dwindling, due to such factors as urban redevelopment, condominium conversion, decreased construction, increased demand from higher income renters and the virtual elimination of federal funds for the construction of low-cost housing; and

WHEREAS, a recent report from the U.S. Conference of Mayors found that the demand for assisted housing by low-income households increased 88 percent last year in the cities surveyed; and

WHEREAS, the 1987 Legislative Research Commission study on homelessness in Kentucky found the lack of affordable housing for low-income individuals to be a serious problem; and

WHEREAS, the 1987 Legislative Research Commission study on homelessness in Kentucky found a lack in the availability of rental assistance programs for low-income individuals and families in Kentucky; and

WHEREAS, the lack of affordable low-income housing places many Kentuckians at risk of homelessness;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky Housing Corporation, in consultation with the Kentucky Housing Association, be directed to study the statewide availability and adequacy of publicly assisted low-income housing units and rental assistance programs. The study shall include but not be limited to:

(1) A statewide county-by-county inventory of the availability of publicly assisted housing units and subsidized rental assistance programs by the following types of low-income households:

(a) Aged persons alone;

(b) Non-aged persons alone;

(c) Couples without children;

(d) Families with less than 5 children; and

(e) Families with more than 5 children.

(2) A statewide county-by-county identification of the number of persons on waiting lists and average length of time for obtaining access to publicly assisted housing and rental assistance programs by the following types of low-income households:

(a) Aged persons alone;

(b) Non-aged persons alone;

(c) Couples without children;

(d) Families with less than 5 children; and

(e) Families with more than 5 children.

(3) An examination of the procedures utilized to maintain and update the waiting lists for obtaining access to publicly assisted housing units and rental assistance programs and the identification of any and all guidelines regulating and monitoring the waiting lists.

Section 2. That the Kentucky Housing Corporation, in consultation with the Kentucky Housing Association, identify causal factors, findings and recommendations related to the lack of available, affordable and adequate publicly assisted low-income housing and rental assistance in Kentucky.

Section 3. That the Kentucky Housing Corporation shall report the findings and recommendations of this study to the Legislative Research Commission and the Interim Joint Committees on Counties and State Government no later than June 1, 1989.

Section 4. That the Kentucky Housing Corporation, in consultation with the Kentucky Housing Association, develop and periodically update an easy to read guide of available publicly assisted housing and rental assistance programs for low-income persons in Kentucky. The guide may include but need not be limited to:

(a) An easy to read description of each type of low income housing and rental assistance programs available;

(b) How and where to apply for such programs;

(c) Eligibility requirements for such programs; and

(d) The geographic location of such programs. The guide may be made available to low-income Kentuckians, public and private agencies serving homeless persons and those at risk of homelessness.

The Committee on Business Organizations and Professions reported **HB 862** and **HB 988** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 862, AN ACT relating to charitable gaming.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 528.010 is amended to read as follows:

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Advancing gambling activity" — A person "advances gambling activity" when, acting other than as a player, he engages in conduct that materially aids any form of gambling activity. Such conduct includes but is not limited to conduct directed toward the establishment of the particular game, contest, scheme, device or activity involved; toward the acquisition or maintenance of premises, paraphernalia, equipment or apparatus therefor; toward the solicitation or inducement of persons to participate therein; toward the actual conduct of the playing phases thereof; toward the arrangement of any of its financial or recording phases or toward any other phase of its operation. A person who gambles at a social game of chance on equal terms with other participants does not otherwise advance gambling activity by performing acts, without remuneration or fee, directed toward the arrangement or facilitation of the game as inviting persons to play, permitting the use of premises therefor and supplying equipment used therein.

(2) "Bookmaking" means advancing gambling activity by unlawfully accepting bets upon the outcome of future contingent events from members of the public as a business.

(3) "Gambling" means staking or risking something of value upon the outcome of a contest, game, gaming scheme or gaming device which is based upon an element of chance, in accord with an agreement or understanding that someone will receive something of value in the event of a certain outcome.

(4) "Gambling device" means:

(a) Any so-called slot machine or any other machine or mechanical device an essential part of which is a drum or reel with insignia thereon, and which when operated may deliver, as a result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property; or

(b) Any other machine or any mechanical or other device (including but not limited to roulette wheels, gambling tables and similar devices) designed and manufactured primarily for use in connection with gambling and which when operated may deliver, as the result of the application of an element of chance, any money or property, or by the operation of which a person may become entitled to receive, as the result of the application of an element of chance, any money or property.

(c) But, the following are not to be considered gambling devices within this definition:

1. Devices dispensing or selling combination or French pools on licensed, regular racetracks during races on said tracks.

2. Electro-mechanical pinball machines specially designed, constructed, set up and kept to be played for amusement only; provided any such pinball machine shall be made to receive and react only to the deposit of coins during the course of a game; provided the ultimate and only award given directly or indirectly to any player for the attainment of a winning score or combination on any such pinball machine shall be the right to play one (1) or more additional games immediately on the same device at no further cost; provided the maximum number of free games that can be won, registered, or accumulated at one (1) time in operation of any such pinball machine shall not exceed thirty (30) free games; provided any such pinball machine shall be made to discharge accumulated free games only by reactivating the playing mechanism once for each game released; and provided any such pinball machine shall be made and kept with no meter or system to preserve a record of free games played, awarded or discharged. Nonetheless, a pinball machine shall be a gambling device if a person gives or promises to give money, tokens, merchandise, premiums or property of any kind for scores, combinations or free games obtained in playing such pinball machine in which such person has an interest as owner, operator, keeper or otherwise.

(5) "Lottery and gift enterprise" means:

(a) A gambling scheme in which:

1. The players pay or agree to pay something of value for chances, represented and differentiated by numbers or by combinations of numbers or by some other media, one (1) or more of which are to be designated the winning ones; and

2. The winning chances are to be determined by a drawing or by some other method based upon the element of chance; and

3. The holders of the winning chances are to receive something of value.

(b) A gift enterprise or referral sales plan which meets the elements of a lottery listed in *paragraph (a) of this* subsection [~~(5)(a)~~] is to be considered a lottery under this chapter.

(6) "Mutuel" or "the numbers games" means a form of lottery in which the winning chances or plays are not determined upon the basis of a drawing or other act on the part of persons conducting or connected with the scheme, but upon the basis of the outcome or outcomes of a future contingent event or events otherwise unrelated to the particular scheme.

(7) "Player" means a person who engages in any form of gambling solely as a contestant or bettor, without receiving or becoming entitled to receive any profit therefrom other than personal gambling winnings, and

without otherwise rendering any material assistance to the establishment, conduct or operation of the particular gambling activity. A person who engages in "bookmaking" as defined in subsection (2) *of this section* is not a "player." The status of a "player" shall be a defense to any prosecution under this chapter.

(8) "Profiting from gambling activity" — A person "profits from gambling activity" when, other than as a player, he accepts or receives or agrees to accept or receive money or other property pursuant to an agreement or understanding with any person whereby he participates or is to participate in the proceeds of gambling activity.

(9) "Something of value" means any money or property, any token, object or article exchangeable for money or property, or any form of credit or promise directly or indirectly contemplating transfer of money or property or of any interest therein, or involving extension of a service, entertainment or a privilege of playing at a game or scheme without charge.

(10) (a) "Charitable gaming" means games of chance, including bingo, operated by charitable or religious organizations or institutions *or fraternal societies, or associations, operating under the lodge system, the net earnings of which are devoted exclusively to religious, scientific, literary, educational, or fraternal purposes.* In order to assume a charitable gaming status, the charitable or religious organization or institution *or fraternal society* and the gaming activity conducted thereby shall conform to the following requirements:

1. The organization or institution conducting the gaming activity shall maintain a charitable or religious *or fraternal society* tax exemption according to the Federal Internal Revenue Code and shall have maintained such federal tax exempt status for a period of five (5) years prior to any prosecution under this chapter;

2. The gaming activity conducted by such organization or institution shall be operated exclusively by volunteer personnel receiving no remuneration whatsoever for their services;

3. Any proceeds resulting from the operation of charitable gaming activity shall be utilized solely for purposes consistent with the charitable or religious *or fraternal society* functions and objectives for which the operating organization or institution *or fraternal society* received and maintained federal tax exempt status.

(b) The status of "charitable gaming" shall be a defense to any prosecution under this chapter.

HB 988, AN ACT relating to the real estate commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky real estate commission. The governor shall appoint *seven (7)* [~~five (5)~~] persons, at least *six (6)* [~~four (4)~~] of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of said commission shall be for four (4) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section.

(2) Vacancies occurring in 1984 shall be filled by one (1) appointment for a three (3) year term and one (1) appointment for a four (4) year term; all subsequent appointments will be for the specified four (4) year term.

(3) For each appointment or vacancy, the Kentucky Association of Realtors shall supply a list of not less than three (3) names of licensees to the governor each year from which the broker or sales associate appointments are to be made. The governor may fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(4) There shall not be more than *four (4)* [~~three (3)~~] of any one political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to draft regulations, to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter; to conduct whenever deemed necessary certain educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized rules and regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes, rules or regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(6) The commission, at its discretion, may use such funds as are necessary to purchase liability insurance for members and executive officers of the commission, inspectors and for members of the staff exempted from classified service of the state by KRS 18A.115.

Calendar

HB 581, **HB 649**, **HB 767**, **HB 1002**, **HB 1007**, **HB 481**, **HB 648**, **HB 672**, **HB 688**, **HB 695**, **HB 724**, **HB 835**, **HB 381**, **HB 382**, **HB 383**, **HB 384**, **HB 561**, **HB 621**, **HB 704**, **HB 730**, **HB 829**, **HB 868**, **HB 968**, **HB 314**, **HB 803**, **HB 842**, **HB 889** and **HCR 116** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

Representative Stumbo moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Johnson moved the adoption of Legislative Citation No. 87. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds IMMANUAL BAPTIST CHURCH and Pastor Malcolm Lunceford for your friendship to the members of this prestigious body over the years. We greatly appreciate your hospitality in preparing, once again, a delicious meal for us during this legislative session.

The House of Representatives joins Representative Louis Johnson in expressing our sincere thanks to Pastor Lunceford and the Membership of Immanual Baptist Church for the dinner and entertainment prepared for us on March 10.

HB 747, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 747**. Agreed.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to **HB 747**. Agreed.

Representative Donnermeyer moved that **HB 747**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 14, 1988 roll call on **HB 747** - Appendix A.)

HB 747, as amended, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 747**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 684, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Floor Amendment No. 1 to **HB 684**. Agreed.

Representative Clarke moved that **HB 684**, as amended, be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 14, 1988 roll call on **HB 684** - Appendix A.)

HB 684, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 684**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 719, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 719**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 2 to **HB 719**. Agreed.

Representative Barrows moved the adoption of Committee Amendment No. 3 to **HB 719**. Agreed.

Representative Barrows moved that **HB 719**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 14, 1988 roll call on **HB 719** - Appendix A.)

HB 719, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 719**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 720 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 720** be passed.

On the roll call the vote was: Yeas 61, Nays 32. (See March 14, 1988 roll call on **HB 720** - Appendix A.)

HB 720 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 720** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 552, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 552**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 2 to **HB 552**. Agreed.

Representative Lear moved the adoption of Committee Amendment No. 3 to **HB 552**. Agreed.

Representative Lear moved that **HB 552**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 14, 1988 roll call on **HB 552** - Appendix A.)

HB 552, as amended, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 552**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 551, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 551**. Agreed.

Representative Farrow moved the adoption of Floor Amendment No. 1 to Committee Substitute to **HB 551**. Rejected.

Representative Lear moved that **HB 551**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 14, 1988 roll call on **HB 551** - Appendix A.)

HB 551, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 551**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 217 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that **SB 217** be passed.

On the roll call the vote was: Yeas 85, Nays 13. (See March 14, 1988 roll call on **SB 217** - Appendix A.)

SB 217 was passed and the title agreed to.

Representative Meyer moved that the vote by which **SB 217** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 223 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved that **SB 223** be passed.

On the roll call the vote was: Yeas 93, Nays 2. (See March 14, 1988 roll call on **SB 223** - Appendix A.)

SB 223 was passed and the title agreed to.

Representative Meyer moved that the vote by which **SB 223** was passed be reconsidered and said motion be placed on the table. Agreed.

Senate Message

Announcing the passage of **SB 147**, **SB 245**, **SB 288**, **SB 300**, **SB 304**, **SB 321**, **SB 345**, **HB 5** with Senate Amendment, **HB 453** with Senate Amendment, **HB 576** with Senate Amendment, **HB 341**, **HB 476**, **HB 489**, **HB 491**, **HB 515**, **HB 612**, **HB 613** and **HB 616**.

Orders of the Day (continued)

HB 586, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative LeMaster moved the adoption of Committee Amendment No. 1 to **HB 586**. Agreed.

Representative LeMaster moved the adoption of Committee Amendment No. 2 to **HB 586**. Agreed.

Representative Lundergan moved the adoption of Floor Amendment No. 2 to **HB 586**. Agreed.

Representative Geveden moved the adoption of Floor Amendment No. 1 to **HB 586**. Agreed.

Representative Lundergan moved that **HB 586**, as amended, be passed.

On the roll call the vote was: Yeas 72, Nays 19. (See March 14, 1988 roll call on **HB 586** - Appendix A.)

HB 586, as amended, was passed.

Representative Lundergan moved the adoption of Floor Title Amendment to **HB 586**. Agreed; and the title was agreed to.

Representative Lundergan moved that the vote by which **HB 586**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 856, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of Committee Amendment No. 1 to **HB 856**. Agreed.

Representative Mack moved the adoption of Committee Amendment No. 2 to **HB 856**. Agreed.

Representative Mack moved that **HB 856**, as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 22. (See March 14, 1988 roll call on **HB 856** - Appendix A.)

HB 856, as amended, was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 856**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 62, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HCR 62**. Agreed.

Representative Lear moved that **HCR 62**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See March 14, 1988 roll call on **HCR 62** - Appendix A.)

HCR 62, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HCR 62**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 906, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved the adoption of Committee Amendment No. 2 to **HB 906**. Agreed.

Representative Arnold moved that **HB 906**, as amended, be passed.

On the roll call the vote was: Yeas 53, Nays 35. (See March 14, 1988 roll call on **HB 906** - Appendix A.)

HB 906, as amended, was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 906**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 217, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Substitute to **HB 217**. Agreed.

Representative Blevins moved that **HB 217**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 4. (See March 14, 1988 roll call on **HB 217** - Appendix A.)

HB 217, by way of Committee Substitute, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 217**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 833 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HB 833** be passed.

On the roll call the vote was: Yeas 73, Nays 19. (See March 14, 1988 roll call on **HB 833** - Appendix A.)

HB 833 was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 833** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 973, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered

read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved the adoption of Committee Substitute to **HB 973**. Agreed.

Representative Worthington moved that **HB 973**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 14, 1988 roll call on **HB 973** - Appendix A.)

HB 973, by way of Committee Substitute, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 973**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 701 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 701** be passed.

On the roll call the vote was: Yeas 93, Nays 5. (See March 14, 1988 roll call on **HB 701** - Appendix A.)

HB 701 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 701** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 708, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Substitute to **HB 708**. Agreed.

Representative Blevins moved that **HB 708**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 89, Nays 5. (See March 14, 1988 roll call on **HB 708** - Appendix A.)

HB 708, by way of Committee Substitute, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 708**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 929, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Deskins moved the adoption of Committee Amendment No. 1 to **HB 929**. Agreed.

Representative Maggard moved that **HB 929**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 3. (See March 14, 1988 roll call on **HB 929** - Appendix A.)

HB 929, as amended, was passed and the title agreed to.

Representative Maggard moved that the vote by which **HB 929**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 932 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 932** be passed.

On the roll call the vote was: Yeas 99, Nays 0. (See March 14, 1988 roll call on **HB 932** - Appendix A.)

HB 932 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 932** was passed be reconsidered and said motion be placed on the table. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 160, by Representative Ford: A RESOLUTION in appreciation to Immanuel Baptist Church, Frankfort, Kentucky.

HR 161, by Representatives Bruce and Morris: A RESOLUTION adjourning in memory of the March 10, 1988 tragic helicopter disaster on the Kentucky-Tennessee border.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 369**, **HB 370**, **HB 692**, **HB 194**, **HB 22**, **HB 249**.

Judiciary-Criminal: **HB 858**.

Natural Resources and Environment: **SB 193**, **SB 258**.

State Government: **HB 699**, **HB 490**, **HB 963**, **HB 942**, **HB 864**, **HB 990**, **HB 1013**, **SB 121**, **SB 225**, **SB 211**, **SB 208**, **SB 209**, **SB 237**, **SCR 68**, **SCR 69**.

Judiciary-Civil: **HB 839**.

Health and Welfare: **HCR 141**.

Agriculture and Small Business: **SJR 50**, **HB 896**.

Banking and Insurance: **SB 305.**

Report of Committees

The Committee on Rules reported **HB 371, HB 443, HB 636, HB 855, HB 354, HB 771, HB 777, HB 789, HB 820, HB 857, HB 873, HB 874, HB 935, HB 13, HB 32, HB 49, HB 85, HB 225, HB 305, HB 365, HB 464, HB 472, HB 473, HB 484, HB 500, HB 513, HB 574, HB 594, HB 617, HB 643, HB 660, HB 673, HB 740, HB 750, HB 764, HB 816, HB 840, HB 875, HB 908, HB 930, HB 944, HB 955, HB 956, HB 992, HJR 94, HCR 124, HCR 125, HJR 132, SB 24, SB 174, HB 314, HB 481, HB 561, HB 581, HB 621, HB 730, HB 767, HB 803, HB 835, HB 842, HB 868, HB 889, HB 968, HB 1007** and **HCR 116** have been posted for passage in Orders of the Day, March 15, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 15, 1988: **HB 712, HB 735.**

The Committee on Rules reported the following Bill has been recommitted:

Cities: **HB 36.**

Motions, Petitions and Communications (continued)

Representative K. Harper moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative K. Harper moved the adoption of Legislative Citation No. 88. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds CLIFTINA WEAKLEY of Bullitt East High School for your achievement of academic excellence. As you participate in the Governors Cup Competition this prestigious body takes this opportunity to commend you for the hard work and dedication to your studies which has distinguished you among your peers.

The House of Representatives joins Representative John Harper in saluting your academic achievements and acknowledging the honor and pride you have bestowed on your school and your county by participating in this forum.

Representative Will moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Will moved the adoption of a Legislative Citation No. 86. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds SOUTHERN HIGH SCHOOL for your outstanding performance in capturing the 6th REGION GIRLS BASKETBALL CHAMPIONSHIP. The dedication and hard work exhibited by each member of the LADY TROJANS team paved the way to a 29-2 record in regular season play and a ranking of No. 1 in C-J Litkenhous Ratings in the state. Further, we commend Coach Bill Brown and Principal Jim Burch, and Athletic Director Jim Watkins for your support and encouragement.

The House of Representatives joins Representative Jack Will in congratulating you and wishing you well in the State Tournament.

Representative Ford moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Ford moved the adoption of the following **HR 160:**

HR 160. A RESOLUTION in appreciation to Immanuel Baptist Church, Frankfort, Kentucky.

WHEREAS, Pastor Malcolm Lunceford had an outstanding dinner for the members of the General Assembly on March 10, 1988; and

WHEREAS, this is the third session in a row that Pastor Malcolm Lunceford has provided the members of the General Assembly with a gracious meal; and

WHEREAS, Pastor Malcolm Lunceford and his congregation have been dear friends of the General Assembly for twenty-two years; and

WHEREAS, the General Assembly wants to thank all that were involved in the preparation of the bountiful dinner; and

WHEREAS, the members of the General Assembly thoroughly enjoyed the entertainment provided by the barbershop group; and

WHEREAS, the evening's entertainment included a notable solo by Gordon Lunceford;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House extends sincere appreciation and thanks to Pastor Malcolm Lunceford and all that prepared the dinner and furnished the entertainment.

Section 2. That the Clerk of the House is directed to transmit a copy of this resolution to Pastor Malcolm Lunceford.

HR 160 was adopted by voice vote.

Representative Bruce moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Bruce moved the adoption of the following **HR 161**:

HR 161, A RESOLUTION adjourning in memory of the March 10, 1988 tragic helicopter disaster on the Kentucky-Tennessee border.

WHEREAS, a tragic helicopter crash of March 10, 1988, took the lives of seventeen Fort Campbell soldiers; and

WHEREAS, these brave and patriotic members of the U.S. Army had been on a routine night training mission before their fatal crash; and

WHEREAS, these soldiers have left behind them family and friends who will mourn their loss forever;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its utter and profound sense of loss and bereavement upon the deaths of these brave men and does extend to their families its heartfelt sympathy and condolences.

Section 2. That when the House of Representatives adjourns this day, March 14, 1988 it does so in honor and loving memory of these fine and courageous soldiers.

HR 161 was adopted by voice vote.

Representative Bruce moved that a call of the roll be taken on **HR 161** to show co-sponsors. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 161**: Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Guenthner, Hancock, J. Harper, K. Harper, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, LeMaster, Lile, Little, Long, Lundergan, Lyne, Maggard, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington, Yates.

Representative Stumbo moved that **SB 336** be reassigned to Counties and Special Districts. Agreed.

Representative Stumbo moved that the rules be suspended to allow a meeting of the Committee on Appropriations and Revenue on recess. Agreed.

Representative Bruce moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that he be recorded as voting "nay" on **HB 505**. Agreed.

Representative Ridley moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ridley moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative Ford moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative Will moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Will moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative Ford moved that **HB 366** be withdrawn. Agreed.

Representative Stumbo moved that no other business be conducted on this day other than filing of Floor Amendments, Report of Committees and making adjournment plans. Agreed.

Representative Stumbo moved that the rules be suspended to make adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns today, it do so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it do so until 2:00 p.m., March 15, 1988. Agreed.

Recess

Representative Stumbo moved that the House recess until the Committee on Appropriations and Revenue's report is prepared. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Report of Committee

The Committee on Appropriations and Revenue reported **HB 423** with Committee Substitute attached thereto, **HB 424** with Committee Substitute attached thereto, and **HB 516** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 423, AN ACT making appropriations for the operations, maintenance, support and functioning of the legislative branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated to the Legislative Research Commission out of the General Expenditure Fund for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990 to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky including, but not limited to, the legislative sessions, interim committees, monthly expense allowance, Legislative Research Commission, legislative interns, electronic data processing, and facilities improvement:

	1988-89	1989-90
1. General Assembly	$ 5,952,900	$ 9,332,800
2. Legislative Research Commission	12,379,500	12,262,200

The total number of permanent full-time employes hired by the Legislative Research Commission with the above appropriation shall not exceed 231. Within this total, the permanent full-time employes assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the employes assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

	1988-89	1989-90
3. Board of Ethics	18,000	18,000
Total-legislative branch	$18,350,400	$21,613,000

Any unexpended balance remaining at the close of the 1988-89 fiscal year shall not lapse, but shall continue into the 1989-90 fiscal year. The specific allocation of these funds shall be made by the director of the Legislative Research Commission at the direction of the Legislative Research Commission.

PART II

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Legislative Research Commission for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for fiscal year July 1, 1989 and ending June 30, 1990, all receipts of the Legislative Research Commission not otherwise disposed by law, and any unexpended balance remaining in the Legislative Research Commission's existing trust and agency accounts at the close of the fiscal years ending June 30, 1988 and June 30, 1989.

In the event the Legislative Research Commission receives receipts in excess of the amounts appropriated herein, the director of the Legislative Research Commission at the direction of the Legislative Research Commission may authorize the credit and expenditure of such trust and revolving or agency funds receipts for statutory purposes. The director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Legislative Research Commission	$150,000	$160,000

PART III

FEDERAL FUNDS

There is appropriated to the Legislative Research Commission for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990, federal subvention, grants, contracts and other federal funds received, income from investment and other miscellaneous federal receipts received by the Legislative Research Commission except as otherwise specifically provided, for the use and benefit of the Legislative Research Commission for the purposes for which its fund is authorized, and any unexpended balance remaining in the Legislative Research Commission's existing federal accounts at the close of fiscal years ending June 30, 1988 and June 30, 1989. All funds received shall be deposited in the state treasury and credited to the proper federal fund account as provided by law.

In the event the Legislative Research Commission receives monies in excess of the amounts appropriated herein, the director of the Legislative Research Commission at the direction of the Legislative Research Commission may authorize the credit and expenditure of such federal funds for statutory purposes. The director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year with an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Legislative Research Commission	$100	$100

PART IV

GENERAL PROVISIONS

1. The director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employe of the Legislative Research Commission who was reimbursed during the previous month.

3. No member except the members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. The Legislative Research Commission shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed legislative budget, as modified and enacted, and supported by appropriate work papers and other records pertaining thereto.

5. The Legislative Research Commission shall cause the director of the Legislative Research Commission to prepare a final budget document reflecting the 1988-90 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the finance and administration cabinet within thirty (30) days of the adjournment of the 1988 session of the General Assembly.

The Committee Substitute to **HB 423** is as follows:

HB 423, AN ACT making appropriations for the operations, maintenance, support and functioning of the legislative branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated to the Legislative Research Commission out of the General Expenditure Fund for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990 to be used for the purposes of the legislative branch of government of the Commonwealth of Kentucky including, but not limited to, the legislative sessions, interim committees, monthly expense allowance, Legislative Research Commission, legislative interns, electronic data processing, and facilities improvement:

	1988-89	1989-90
1. General Assembly	$ 5,484,900	$ 9,156,400
2. Legislative Research Commission	11,823,900	11,947,400

The total number of permanent full-time employes hired by the Legislative Research Commission with the above appropriation shall not exceed 226. Within this total, the permanent full-time employes assigned specifically to the House members of the Legislative Research Commission shall not exceed 19 and the employes assigned specifically to the Senate members of the Legislative Research Commission shall not exceed 10.

	1988-89	1989-90
3. Board of Ethics	18,000	18,000
Total-legislative branch	$17,326,800	$21,121,800

Any unexpended balance remaining at the close of the 1988-89 fiscal year shall not lapse, but shall continue into the 1989-90 fiscal year. The specific allocation of these funds shall be made by the director of the Legislative Research Commission at the direction of the Legislative Research Commission.

PART II

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Legislative Research Commission for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for fiscal year July 1, 1989 and ending June 30, 1990, all receipts of the Legislative Research Commission not otherwise disposed by law, and any unexpended balance remaining in the Legislative Research Commission's existing trust and agency accounts at the close of the fiscal years ending June 30, 1988 and June 30, 1989.

In the event the Legislative Research Commission receives receipts in excess of the amounts appropriated herein, the director of the Legislative Research Commission at the direction of the Legislative Research Commission may authorize the credit and expenditure of such trust and revolving or agency funds receipts for statutory purposes. The director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Legislative Research Commission	$150,000	$160,000

PART III

FEDERAL FUNDS

There is appropriated to the Legislative Research Commission for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990, federal subvention, grants, contracts and other federal funds received, income from investment and other miscellaneous federal receipts received by the Legislative Research Commission except as otherwise specifically provided, for the use and benefit of the Legislative Research Commission for the purposes for which its fund is authorized, and any unexpended balance remaining in the Legislative Research Commission's existing federal accounts at the close of fiscal years ending June 30, 1988 and June 30, 1989. All funds received shall be deposited in the state treasury and credited to the proper federal fund account as provided by law.

In the event the Legislative Research Commission receives monies in excess of the amounts appropriated herein, the director of the Legislative Research Commission at the direction of the Legislative Research Commission may authorize the credit and expenditure of such federal funds for statutory purposes. The director of the Legislative Research Commission shall notify on a timely basis the Legislative Research Commission of the most current estimates of anticipated receipts for the affected fiscal year with an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Legislative Research Commission	$100	$100

PART IV

GENERAL PROVISIONS

1. The director of the Legislative Research Commission with the approval of the Legislative Research Commission may expend any of the funds appropriated for legislative operation and administration in any lawful manner and for any legal purpose which the commission shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the legislative branch of government.

2. The director of the Legislative Research Commission shall submit monthly to the Legislative Research Commission a report listing all travel expenses reimbursed, travel related per diem, and any other travel related reimbursement for each General Assembly member and each employe of the Legislative Research Commission who was reimbursed during the previous month.

3. No member except the members of the Legislative Research Commission shall receive in any one fiscal year per diem compensation in excess of 7 days in connection with out-of-state travel unless prior written approval has been received from the Legislative Research Commission.

4. The Legislative Research Commission shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed legislative budget, as modified and enacted, and supported by appropriate work papers and other records pertaining thereto.

5. The Legislative Research Commission shall cause the director of the Legislative Research Commission to prepare a final budget document reflecting the 1988-90 biennial budget of the legislative branch. A copy shall be provided to the Legislative Research Commission and an informational copy shall be furnished to the finance and administration cabinet within thirty (30) days of the adjournment of the 1988 session of the General Assembly.

HB 424, AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the general fund for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990, the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, circuit court, district court, the administrative office of the courts, pretrial services, juvenile services, judicial boards and commissions, the state law library, judicial retirement, local facility fund and for services performed by the circuit clerks' offices, including both circuit and district court support:

1. Court of Justice	1988-89	1989-90
a. To the Court of Justice, for court operation and administration	$72,490,500	$76,071,800

Funds are included to provide a five percent (5%) salary adjustment in fiscal year 1988-89 and in fiscal year 1989-90 for all elected and non-elected court personnel. Also included are funds to provide an additional annual salary increment of $750 in each fiscal year for each district judge.

	1988-89	1989-90
b. To the Court of Justice, for the local facility fund	$10,483,300	$11,393,000

	1988-89	1989-90
Total Court of Justice	$82,973,800	$87,464,800

2. Judicial Form Retirement System	1988-89	1989-90
a. To the board of trustees of the judicial form retirement system, for funding and operation of the judicial retirement plan	$ 1,739,400	$ 1,769,900

Funds are included to provide for medical and health insurance benefits for retirees in accordance with KRS 6.577. Also included are funds to provide a five percent (5%) cost-of-living adjustment in fiscal year 1988-89 and in fiscal year 1989-90 for persons who retired prior to June 30, 1982.

Total - Judicial Branch	$84,713,200	$89,234,700

PART II

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Court of Justice for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for fiscal year July 1, 1989 and ending June 30, 1990, all receipts of the Court of Justice not otherwise disposed of by law, and any unexpended balance remaining in the Court of Justice's existing trust and agency accounts at the close of the fiscal years ending June 30, 1988 and June 30, 1989.

In the event the Court of Justice receives receipts in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such trust and revolving or agency funds receipts for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Court of Justice	$1,000	&1,000

PART III

FEDERAL FUNDS

There is appropriated to the Court of Justice for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990, federal subvention, grants, contracts and other federal funds received, income from investment and other miscellaneous federal receipts received by the Court of Justice except as otherwise specifically provided, for the use and benefit of the Court of Justice for the purposes for which its fund is authorized, and any unexpended balance remaining in the Court of Justice's existing federal accounts at the close of fiscal years ending June 30, 1988 and June 30, 1989. All funds received shall be deposited in the state treasury and credited to the proper federal fund account as provided by law.

In the event the Court of Justice receives monies in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such federal funds for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year with an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Court of Justice	$100	$100

PART IV

BUDGET REDUCTION PLAN

In accordance with KRS 48.130, if the projected or actual general fund revenues are certified to be at least two and one-half percent (2 1/2%) but not more than five percent (5%) less than the revenue estimates, and in the event that there is insufficient unrestricted monies in the General Fund Surplus Account or in the budget reserve trust fund for the prorata share of all branches the general fund allotment shall be reduced as follows:

	1988-89	1989-90
1. Court of Justice		
a. Court of Justice, court operation, and administration	$ 1,812,200	$ 1,901,800
b. Court of Justice local facility fund	$ 262,100	$ 284,800
2. Judicial Form Retirement System	$ 43,500	$ 44,300
Total - Judicial Branch	$ 2,117,800	$ 2,230,900

PART V

SURPLUS EXPENDITURE PLAN

In accordance with KRS 48.140, if the projected or actual general fund revenues are certified to be up to two and one-half percent (2 1/2%) greater than the revenue estimates, the general fund allotment shall be increased as follows:

	1988-89	1989-90
1. Court of Justice		
a. Court of Justice, court operation and administration	$ 2,117,800	$ 2,230,900

	b. Court of Justice, local facility	$-0-	$-0-
2.	Judicial Form Retirement System	$-0-	$-0-
	Total - Judicial Branch	$ 2,117,800	$ 2,230,900

PART VI

GENERAL PROVISIONS

1. The director of the administrative office of the courts with the approval of the chief justice may expend any of the funds appropriated for court operation and administration in any lawful manner and for any legal purpose which the chief justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. In enacting this appropriations Act, it is the deliberate intention of the general assembly to enact each section, and each subsection thereof as a separate and specific appropriation and law, and if any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Court of Justice shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other records pertaining thereto.

4. The chief justice shall cause the director of the administrative office of the courts to prepare a final budget document reflecting the 1988-90 biennial budget of the Court of Justice. A copy shall be provided to the legislative research commission and an informational copy shall be furnished to the finance and administration cabinet within thirty (30) days of the adjournment of the 1988 session of the general assembly.

The Committee Substitute to **HB 424** is as follows:

HB 424, AN ACT making appropriations for the operations, maintenance, support and functioning of the judicial branch of the government of the Commonwealth of Kentucky and its various officers, boards, commissions, subdivisions, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the general fund for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990, the following sums to be used for the purposes of the judicial branch of the government of the Commonwealth of Kentucky including the Supreme Court, Court of Appeals, circuit court, district court, the administrative office of the courts, pretrial services, juvenile services, judicial boards and commissions, the state law library, judicial retirement, local facility fund and for services performed by the circuit clerks' offices, including both circuit and district court support:

		1988-89	1989-90
1.	Court of Justice		
	a. To the Court of Justice, for court operation and administration	$ 66,110,000	$ 69,331,100

Funds are included to provide a two percent (2%) salary adjustment in fiscal year 1988-89 and five percent (5%) in fiscal year 1989-90 for all elected and non-elected court personnel. Also included in the above appropriation is $20,000 each fiscal year for the purpose of employing a trial commissioner for the Fayette County District Court.

	1988-89	1989-90
b. To the Court of Justice, for the local facility fund	$ 9,937,800	$10,397,100

	1988-89	1989-90

Total Court of Justice	$ 76,047,800	$ 79,728,200
2. Judicial Form Retirement System	1988-89	1989-90
a. To the board of trustees of the judicial form retirement system, for funding and operation of the judicial retirement plan	$ 1,739,400	$ 1,769,900

Funds are included to provide for medical and health insurance benefits for retirees in accordance with KRS 6.577. Also included are funds to provide a five percent (5%) cost-of-living adjustment in fiscal year 1988-89 and in fiscal year 1989-90 for persons who retired prior to June 30, 1982.

Total - Judicial Branch	$ 77,787,200	$ 81,498,100

PART II

TRUST AND AGENCY FUNDS

There is hereby appropriated to the Court of Justice for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for fiscal year July 1, 1989 and ending June 30, 1990, all receipts of the Court of Justice not otherwise disposed of by law, and any unexpended balance remaining in the Court of Justice's existing trust and agency accounts at the close of the fiscal years ending June 30, 1988 and June 30, 1989.

In the event the Court of Justice receives receipts in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such trust and revolving or agency funds receipts for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year and an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Court of Justice	$ 1,000	$ 1,000

PART III

FEDERAL FUNDS

There is appropriated to the Court of Justice for the fiscal year beginning July 1, 1988 and ending June 30, 1989, and for the fiscal year beginning July 1, 1989 and ending June 30, 1990, federal subvention, grants, contracts and other federal funds received, income from investment and other miscellaneous federal receipts received by the Court of Justice except as otherwise specifically provided, for the use and benefit of the Court of Justice for the purposes for which its fund is authorized, and any unexpended balance remaining in the Court of Justice's existing federal accounts at the close of fiscal years ending June 30, 1988 and June 30, 1989. All funds received shall be deposited in the state treasury and credited to the proper federal fund account as provided by law.

In the event the Court of Justice receives monies in excess of the amounts appropriated herein, the director of the administrative office of the courts at the direction of the chief justice may authorize the credit and expenditure of such federal funds for statutory purposes. The director of the administrative office of the courts shall notify on a timely basis the legislative research commission of the most current estimates of anticipated receipts for the affected fiscal year with an accompanying statement which explains such variations from the anticipated amount.

	1988-89	1989-90
Court of Justice	$ 100	$ 100

PART IV

GENERAL PROVISIONS

1. The director of the administrative office of the courts with the approval of the chief justice may expend any of the funds appropriated for court operation and administration in any lawful manner and for any legal

purpose which the chief justice shall authorize or direct. No executive agency of state government shall have the power to restrict or limit the expenditure of funds appropriated to the judicial branch of government.

2. In enacting this appropriations Act, it is the deliberate intention of the general assembly to enact each section, and each subsection thereof as a separate and specific appropriation and law, and if any section, any subsection, or any provisions thereof shall be invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Court of Justice shall not incur any obligation for any program against the general fund appropriation contained herein unless such program may be reasonably determined to have been contemplated by the proposed judicial budget, as modified and enacted, and supported by the budget memorandum and other records pertaining thereto.

4. The chief justice shall cause the director of the administrative office of the courts to prepare a final budget document reflecting the 1988-90 biennial budget of the Court of Justice. A copy shall be provided to the legislative research commission and an informational copy shall be furnished to the finance and administration cabinet within thirty (30) days of the adjournment of the 1988 session of the general assembly.

HB 516. AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ending June 30, 1988, and, including any funds pursuant to KRS 48.700 as of June 30, 1988, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, and, including any funds pursuant to KRS 48.700 as of June 30, 1989, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following sums, or so much thereof as may be necessary, for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I as follows:

A. GOVERNMENT OPERATIONS

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

1988-89	$ 4,285,500
1989-90	$ 4,104,100

Included in the above appropriation is $600,000 in fiscal year 1988-89 and $600,000 in fiscal year 1989-90 for the Governor's Scholars Program. Also included in the above appropriation in each year of the biennium is $18,000 for the Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky as specified in KRS 64.710. In addition, $250,000 is included in the fiscal year 1988-89 appropriation in the Governor's Office for the Kentucky Lottery Commission.

b. Governor's Office for Policy and Management

1988-89	$ 1,871,100
1989-90	$ 1,902,400

c. State Planning Fund

1988-89	$ 500,000
1989-90	$ 500,000

The Governor is hereby authorized to expend funds for the improvement and advancement of governmental purposes and activities.

TOTAL—EXECUTIVE OFFICE OF THE GOVERNOR

1988-89	$ 6,656,600
1989-90	$ 6,506,500

2. LIEUTENANT GOVERNOR

1988-89	$ 513,100
1989-90	$ 522,400

Included in the above appropriation in each year of the biennium is $10,000 for the Lieutenant Governor's expense allowance associated with the position of Lieutenant Governor of Kentucky as specified in KRS 64.710.

3. SECRETARY OF STATE

a. General Operations

1988-89	$ 1,283,600
1989-90	$ 1,310,400

b. Restoration of Land Grant Books

1988-89	$ 44,000
1989-90	$ 44,000

TOTAL—SECRETARY OF STATE

1988-89	$ 1,327,600
1989-90	$ 1,354,400

4. BOARD OF ELECTIONS

1987-88	$ 3,000,000
1988-89	$ 1,282,900
1989-90	$ 1,296,000

Included in the above appropriation is $601,000 in fiscal year 1988-89 and $601,000 in fiscal year 1989-90 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.105). Pursuant to KRS 118.561, the entire cost of the presidential preference primary shall be paid by the state. Three million dollars has been included in the current fiscal year to pay for the primary. Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the

General Fund. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 is hereby appropriated.

5. TREASURY

1988-89	$ 1,392,400
1989-90	$ 1,433,100

6. DEPARTMENT OF LAW

1988-89	$ 5,526,600
1989-90	$ 5,695,900

7. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorney

1988-89	$ 9,112,600
1989-90	$ 9,540,800

b. County Attorney

1988-89	$ 9,322,800
1989-90	$ 10,000,400

TOTAL—UNIFIED PROSECUTORIAL SYSTEM

1988-89	$ 18,435,400
1989-90	$ 19,541,200

8. AUDITOR OF PUBLIC ACCOUNTS

1988-89	$ 2,886,200
1989-90	$ 2,962,500

The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits.

No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

There is hereby appropriated to the Auditor of Public Accounts funds which are required in the auditing of federal disaster relief funds.

The Auditor shall maintain a record of all time and expenses for each audit or investigation.

Any additional expense incurred by the Auditor of Public Accounts for auditing federal funds, when such audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency, when such costs may be charged against federal funds. The Auditor of Public Accounts is hereby authorized to receive these federal funds in a separate account to be established for this purpose. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

9. DEPARTMENT OF AGRICULTURE

1988-89	$ 10,894,500
1989-90	$ 11,215,600

10. DEPARTMENT OF MILITARY AFFAIRS

1988-89	$ 7,056,200
1989-90	$ 7,252,700

Included in the above appropriation is $392,800 in fiscal year 1988-89 and $392,800 in fiscal year 1989-90 for the Kentucky Early Warning System (KEWS) operation of which $10,000 each year is intended for the maintenance of radio equipment.

There is hereby appropriated to the Department funds which are required as a result of the Governor's call of the Kentucky National Guard to active duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

There is hereby appropriated to the Department funds required to match federal aid to which the state would be eligible in the event of a Presidentially-declared disaster or emergency.

11. DEPARTMENT OF PERSONNEL

1987-88	$ 250,000
1988-89	$ 4,603,200
1989-90	$ 4,976,100

12. PERSONNEL BOARD

1988-89	$ 314,700
1989-90	$ 319,700

13. DEPARTMENT FOR LOCAL GOVERNMENT

1988-89	$ 5,543,700
1989-90	$ 5,788,800

14. COUNTY COSTS

		1988-89	1989-90
a.	Base Court Revenue	$ 5,431,000	$ 5,431,000
b.	Sheriffs' Fees	1,374,500	1,374,500
c.	Jury Fund	3,971,900	3,971,900
d.	Witnesses	119,600	119,600
e.	Special Bailiffs	26,600	26,600
f.	Board of Assessment Appeals	20,600	20,600
g.	Fugitives from Justice	368,700	368,700
h.	Sheriffs' Expense Allowance	432,000	432,000
i.	Premium on Sheriffs' Bonds	558,900	575,700
j.	County Clerks - Making Tax Bills	620,800	639,400

TOTAL—COUNTY COSTS

1988-89 . . . . $ 12,924,600

1989-90 . . . . $ 12,960,000

15. Kentucky Center for the Arts

1988-89 . . . . $ 3,354,000

1989-90 . . . . $ 3,359,000

Included in the above appropriations are $600,000 each fiscal year for general operating expenses and $2,754,000 in fiscal year 1988-89 and $2,759,000 in fiscal year 1989-90 for debt service payments.

16. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

1987-88 . . . . $ 810,000

1988-89 . . . . $ 32,260,000

1989-90 . . . . $ 31,990,000

The above appropriations are based on the official estimate of the Secretary of Finance and Administration for severance tax collections during the biennium, distributed in accordance with KRS 42.450 through 42.495.

The appropriation in fiscal year 1988-89 includes $600,000 from coal severance tax receipts estimated to be collected through the accelerated tax collection program. In the event actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 through 42.495.

b. Area Development Fund

1988-89	$ 5,410,000
1989-90	$ 5,410,000

Funds appropriated for the Area Development Fund shall be limited to these amounts notwithstanding the provisions set forth in KRS 48.185.

TOTAL—SPECIAL FUNDS

1987-88	$ 810,000
1988-89	$ 37,670,000
1989-90	$ 37,400,000

17. CAPITAL PLAZA

1988-89	$ 2,286,500
1989-90	$ 2,255,000

Included in the above appropriation is $1,741,800 in fiscal year 1988-89 and $1,736,800 in fiscal year 1989-90 which shall be used for debt service for the Capital Plaza.

Also included in the above appropriation is $66,000 in fiscal year 1988-89 and $64,000 in fiscal year 1989-90 for payment of debt service to replace the bleachers at the Farnham Dudgeon Civic Center with "chair-back" seats.

18. GENERAL OBLIGATION BONDS

a. Park Bonds

1988-89	$ 561,000
1989-90	$ 562,000

b. Veterans Bonus Bonds

1988-89	$ 7,888,000
1989-90	$ 7,893,000

c. 1965 General Purpose Bonds

1988-89	$ 2,059,000
1989-90	$ 2,063,000

TOTAL—GENERAL OBLIGATION BONDS

1988-89	$ 10,508,000
1989-90	$ 10,518,000

19. FINANCIAL DISCLOSURE REVIEW COMMISSION

1988-89	$ 53,100
1989-90	$ 55,400

20. MISCELLANEOUS APPROPRIATIONS

a. Board of Claims Awards

1988-89	$ 300,000
1989-90	$ 300,000

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund.

However, awards under $500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of such agencies.

b. Judgments

1988-89	$ 500,000
1989-90	$ 500,000

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45. Also, to pay medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. However, in no event shall the total payments exceed the sum of $5,500,000 in any fiscal year.

c. Guardian Ad Litem

1988-89	$ 1,000,000
1989-90	$ 1,000,000

d. Prior Year Claims

1988-89	$ 100,000
1989-90	$ 100,000

e. Unredeemed Checks Refunded

1988-89	$ 60,000
1989-90	$ 60,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Blanket Employees Bonds

1988-89	$ 140,000

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

g. Frankfort Planning Commission

1988-89	$ 1,000
1989-90	$ 1,000

h. Frankfort Cemetery

1988-89	$ 2,500
1989-90	$ 2,500

i. Public Improvements

1988-89	$ 5,000
1989-90	$ 5,000

Funds are appropriated for paying assessments for public improvements against property owned by the Commonwealth, and for which assessments the Commonwealth is deemed to be liable.

j. Police and Firemen—Life Insurance

1988-89	$ 50,000
1989-90	$ 50,000

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

k. Workers' Compensation

1988-89	$ 40,000
1989-90	$ 40,000

Fee officers in counties over 75,000 in population.

l. Master Commissioners—Employers Retirement

1988-89	$ 63,000
1989-90	$ 63,000

m. Master Commissioners—Social Security

1988-89	$ 100,000
1989-90	$ 100,000

n. Money Refunded

1988-89	$ 2,000
1989-90	$ 2,000

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet and the Attorney General.

TOTAL—MISCELLANEOUS APPROPRIATIONS

1988-89	$ 2,363,500
1989-90	$ 2,223,500

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are hereby appropriated, and any required expenditure over the above amounts is to be paid from the General Fund Surplus Account.

21. SCHOOL FACILITIES CONSTRUCTION COMMISSION

1988-89	$ 21,720,100
1989-90	$ 31,784,500

22. FLOOD CONTROL ADVISORY COMMISSION

1988-89	$ 114,000
1989-90	$ 117,800

23. COMMISSION ON HUMAN RIGHTS

1988-89	$ 1,239,700
1989-90	$ 1,264,700

24. COMMISSION ON WOMEN

1988-89	$ 190,200
1989-90	$ 195,200

TOTAL—GOVERNMENT OPERATIONS

1987-88	$ 4,060,000
1988-89	$ 158,856,800

1989-90 .... $ 170,998,000

B. COMMERCE

25. OFFICE OF THE SECRETARY

1988-89 .... $ 41,259,500

1989-90 .... $ 50,638,100

Included in the above appropriation is $22,945,200 in fiscal year 1988-89 and $22,942,400 in fiscal year 1988-90 for debt service payments on the Economic Development Bond Program for the previously authorized bond issues. Included as a part of the debt service figures for the $92 million bond authorization is an amount not to exceed $3,389,868 in fiscal year 1988-89 and $3,387,868 in fiscal year 1989-90 for the lease rental payments associated with the $36,600,000 Economic Development Road Bond issue of the Kentucky Turnpike Authority. The Secretary of Transportation shall certify to the Secretary of Commerce the actual amount required to meet the lease rental payment.

Included in the above appropriation are the following for the newly authorized issues: $851,400 in fiscal year 1988-89 and $851,400 in fiscal year 1989-90 for debt service payments associated with the $6.5 million bond authorization for the Covington Riverside Parking Structure; $296,400 in fiscal year 1988-89 and $592,800 in fiscal year 1989-90 for debt service payments associated with the $4.5 million bond authorization for the Owensboro Downtown Development Project; $134,400 in fiscal year 1988-89 and $268,800 in fiscal year 1989-90 for debt service payments associated with the $2 million bond authorization for the Bluegrass Airport Project; $199,000 in fiscal year 1988-89 and $398,000 in fiscal year 1989-90 for the debt service payments associated with the $3 million bond authorization for the Owensboro/Green River Steel Project; and $1,310,200 in fiscal year 1988-89 and $5,240,800 in fiscal year 1989-90 for the debt service payment associated $40 million economic development bond authorization.

Also included in the above appropriation is $12,791,500 in fiscal year 1988-89 and $17,167,300 in fiscal year 1989-90 for the Bluegrass State Skills Corporation.

26. DEPARTMENT OF ECONOMIC DEVELOPMENT

1988-89 .... $ 6,098,000

1989-90 .... $ 7,471,500

27. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1988-89 .... $ 6,571,200

1989-90 .... $ 7,257,300

Included in the above appropriation is $5,916,100 in fiscal year 1988-89 and $5,947,100 in fiscal year 1989-90 for debt service payments associated with the $50 million bond issue authorized in 1982 and the $5 million bond issue authorized in 1986 for the Kentucky Development Finance Authority loan program. Also included in the above appropriation is $655,100 in fiscal year 1988-89 and $1,310,200 in fiscal year 1989-90 for debt service payments for a $5,000,000 bond issue in each fiscal year.

28. DEPARTMENT OF THE ARTS

1988-89 .... $ 3,764,300

1989-90 .... $ 3,814,600

Included in the above appropriation is $150,000 in fiscal year 1988-89 and $150,000 in fiscal year 1989-90 for the Governor's Institute for the Arts. Also included in the above appropriation is $1,600,000 in each fiscal year for the Development and Challenge Grant programs to be administered by the Kentucky Arts Council.

Included in the above appropriation is $140,000 each fiscal year for Outdoor Drama Grants.

TOTAL—COMMERCE

1988-89	$ 57,693,000
1989-90	$ 69,181,500

C. CORRECTIONS

29. CORRECTIONS CABINET

a. Corrections Management

1988-89	$ 16,727,000
1989-90	$ 18,941,800

Included in the above appropriation is $8,938,000 in fiscal year 1988-89 and $9,001,000 in fiscal year 1989-90 for continuing debt service for State Property and Buildings Commission Project 32 and Project 36 bonds.

Included in the above appropriation is $3,431,700 in fiscal year 1988-89 and $5,475,900 in fiscal year 1989-90 for debt service to fund the expansion of the Morgan County facility, a new 152-bed replacement dormitory at the Kentucky State Reformatory, the conversion of the Roederer Farm Center facility to a medium security facility, the construction of a new 150-bed minimum security unit at Roederer Farm Center, the acquisition and conversion of a facility to provide 300 medium security beds, and additional funding for the upgrade and expansion of the Kentucky Correctional Institution for Women.

Also included in the above appropriation is $764,700 in fiscal year 1988-89 and $793,000 in fiscal year 1989-90 for the operation of the Parole Board.

b. Adult Institutions

1988-89	$ 63,833,900
1989-90	$ 72,440,800

c. Community Service and Local Facilities

1987-88	$ 500,000
1988-89	$ 23,681,400
1989-90	$ 24,165,900

d. Local Jails Support

1988-89	$ 15,476,600
1989-90	$ 15,476,600

Included in the above appropriation is $954,800 in fiscal year 1988-89 and $954,800 in fiscal year 1989-

90 for medical care contracts to be distributed, upon approval of the Corrections Cabinet, to counties by the formula codified in KRS 441.206; $200,000 in fiscal year 1988-89 and $200,000 in fiscal year 1989-90 is provided, on a partial reimbursement basis, for medical claims in excess of the statutorially established threshold pursuant to KRS 441.045.

It is the intent of the General Assembly that the $954,800 in fiscal year 1988-89 and $954,800 in fiscal year 1989-90 for medical contracts be maintained in an account specifically for medical contracts and that a county must be certified by the Corrections Cabinet to receive its pro rated share. To obtain certification, a county must submit a notarized statement to the Cabinet which states that it has, to the best of its ability, investigated and obtained the most feasible medical contract or contracts possible. A copy of the contract shall be appended to the letter requesting certification. Upon receipt of the letter requesting certification, the Corrections Cabinet shall review, and if approvable, distribute the funds as appropriate. If the contract is not approvable, the Cabinet must respond in writing to the county concerning its decision and basis for objection. In no event shall the Cabinet release funds without giving proper certification. In no event shall moneys be expended for medical services or supplies that are not provided through an approved contract.

It is the intention of the General Assembly that $200,000 in fiscal year 1988-89 and $200,000 in fiscal year 1989-90 be maintained in a separate account for catastrophic medical expenses for indigents. It is the intention of the General Assembly that any medical claim which exceeds the statutorial threshold may be reimbursed for that amount in excess of the statutorial threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL—CORRECTIONS

1987-88	$ 500,000
1988-89	$ 119,718,900
1989-90	$ 131,025,100

D. EDUCATION AND HUMANITIES

30. DEPARTMENT OF EDUCATION

a. General Administration

1988-89	$ 10,142,400
1989-90	$ 13,037,500

Included in the above appropriation is $134,000 in fiscal year 1988-89 and $2,841,400 in fiscal year 1989-90 for debt service, and $2,385,100 in fiscal year 1988-89 and $2,385,100 in fiscal year 1989-90 for maintenance of facilities and building insurance costs. The amounts herein identified shall be expended for these purposes and no others, except as provided in this Act. Any surplus shall lapse to the General Fund.

b. Aid to Disadvantaged School Districts

1988-89	$ 5,000,000
1989-90	$ 8,000,000

It is the intent of the General Assembly that grants under the Aid to Disadvantaged School Districts program will be proposed by the Superintendent of Public Instruction and approved by the Governor of the Commonwealth.

c. Local District Health and Life Insurance

1987-88	$ 18,644,600
1988-89	$ 72,384,600
1989-90	$ 84,432,200

Included in the above appropriation is $514,100 in fiscal year 1988-89 and $519,400 in fiscal year 1989-90 to provide life insurance to each full-time certified and non-certified employee of local boards of education. Also included in the above appropriation is $71,647,500 in fiscal year 1988-89 and $83,681,700 in fiscal year 1989-90 to purchase medical insurance for certified and non-certified full-time employees of local boards of education pursuant to applicable statutes and regulations. If the costs for life insurance or health insurance exceed the levels of appropriated funds, any unexpended School Foundation Program funds may be used to offset such expenditures, subject to the approval of the Secretary of the Finance and Administration Cabinet.

d. Education for Exceptional Children

1988-89	$ 10,521,300
1989-90	$ 10,884,600

Of the above appropriation, at least $3,424,500 in fiscal year 1988-89 and at least $3,578,100 in fiscal year 1989-90 is included for the Kentucky School for the Blind, and at least $5,378,800 in fiscal year 1988-89 and at least $5,539,400 in fiscal year 1989-90 is included for the Kentucky School for the Deaf.

Also included in this appropriation is $294,000 in fiscal year 1988-89 and $319,000 in fiscal year 1989-90 for debt service for the Kentucky School for the Blind.

e. School Foundation Program

1988-89	$ 1,071,842,200
1989-90	$ 1,114,064,800

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

Funds appropriated to the School Foundation Program shall be allotted to school districts in accordance with KRS 157.310 through 157.430, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. If funds appropriated to the School Foundation Program are insufficient to provide the amount of money required under KRS 157.390(6), allotments to local school districts shall be reduced in accordance with KRS 157.430.

The amount to be included for the 1988-89 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 years	20,780	18,610	16,420	14,140	13,040
4-9 years	22,950	20,780	18,610	14,140	13,040
10-14 years	25,770	23,580	21,390	14,140	13,040

15 years	26,600	24,420	22,230	14,140	13,040
20 year and over	27,010	24,830	22,630	14,140	13,040

Beginning with the school year 1989-90, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank:

Rank	I	II	III	IV	V
Experience					
0-3 years	21,820	19,540	17,240	14,850	13,690
4-9 years	24,100	21,820	19,540	14,850	13,690
10-14 years	27,060	24,760	22,460	14,850	13,690
15-19 years	27,930	25,640	23,340	14,850	13,690
20 years and over	28,360	26,070	23,760	14,850	13,690

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the School Foundation Program allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390(4) shall be reduced by an amount equal to the amount by which the district failed to meet salary requirements, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Revenue Cabinet. Said Cabinet shall then determine whether there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Revenue Cabinet shall then certify its determination to the State Board of Education, and Board shall accept such certified determination as final.

The State Board of Education shall not approve any working budgets or salary schedule summaries for local boards of education for the school years 1988-89 and 1989-90 in which the total amount for 185 days on the salary schedule summary for School Foundation Program teachers' instructional salaries is not equal to the amount for 185 days on the salary schedule summary for school foundation program teachers' instructional salaries in the preceding year, plus the additional amount for teachers' salaries received by the district under this appropriation for a 185-day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year in each local school district.

Local school district personnel who are employed beyond the regular school term of 185 days shall be so employed in accordance with the provisions of KRS 157.390(4) and 702 KAR 1:025. Funding for these extended employment days shall not exceed $24,151,400 in fiscal year 1988-89 and $25,359,000 in fiscal year 1989-90.

Included in the above appropriations are funds to extend the employment of all vocational agriculture units funded in the school foundation program to two hundred forty (240) days.

The allotment of any school district classroom units, pursuant to KRS 157.360 (1) shall not exceed the number of teachers employed by that school district.

Notwithstanding the provisions of KRS 157.360(2)(b)(c)(e), in fiscal years 1988-89 and 1989-90 the allotments to school districts of basic classroom units for grades one (1) through three (3) shall be made on the basis of one for every twenty-two (22) pupils in average daily attendance, the allotments to school districts for grades four (4) through six (6) shall be made on the basis of one (1) for every twenty-six (26) pupils in average daily attendance; and the allotment for grades seven (7) through twelve (12) shall be made on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1988-89	1989-90
Vocational Education	2,538	2,538
Exceptional Children	4,360	4,360

Provided, however, that if the budgeted units in any category of classroom units—Vocational Education, Exceptional Children, Kindergarten, classroom units for elementary and secondary schools, and units related to school administration—prove to be excessive, the surplus may be reallocated to any other category or categories by the Superintendent of Public Instruction, upon the approval of the State Board of Education and the Secretary of the Finance and Administration Cabinet.

Kindergarten units shall be allotted in fiscal year 1988-89 and fiscal year 1989-90 on the basis of one for every two classes with 25 pupils in average daily attendance in each class. The number of units allotted shall be based on end-of-year prior year average daily attendance including the percent of kindergarten increase in average daily attendance the first two months of the current year over the first two months of the previous school year.

The allotments of basic classroom units shall be made on the average daily attendance (ADA) for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions, (a) an average daily attendance of nine and six-tenths (9.6) in fiscal year 1988-89 and in fiscal year 1989-90 shall be deducted for each vocational education unit allotted, and (b) an average daily attendance of seven and two-tenths (7.2) in fiscal year 1988-89 and fiscal year 1989-90 shall be deducted for each exceptional children unit allotted.

The total number of administrative and special instructional services (ASIS) units allotted under KRS 157.360(12) shall be the sum of the total allotted number of basic units, kindergarten units, vocational units, and exceptional children units divided by nine.

The State Board of Education shall promulgate regulations upon the recommendation of the Superintendent of Public Instruction which shall cause ASIS units to be allocated with first priority given to funding units required for accreditation, and second priority given to adding units for classroom instruction. The third priority of funding shall be given to other needs for ASIS units in local school districts.

Allotments for ASIS classroom units pursuant to KRS 157.360(12) shall only be for those personnel who are qualified for their respective positions under applicable provisions of law and regulations and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses in the 1988-90 biennium shall be determined by multiplying the number of classroom units by: $5,272 in the 1988-89 school year and $5,457 in the 1989-90 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units by: $1,800 in the 1988-89 school year and $1,800 in the 1989-90 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than 185 days in accordance with KRS 158.070, or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units.

Any undistributed balance in the Foundation Program fund at the end of the fiscal years 1988-89 and 1989-90 shall lapse to the General Fund except where provisions to the contrary are provided in this Act.

The total appropriation for the School Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase of the total appropriation to the Foundation Program is subject to Part VI, General Provisions, of this Act, and the provisions of KRS Chapter 48.

Included in this appropriation is $86,805,000 in fiscal year 1988-89, and $86,805,000 in fiscal year 1989-90 for the costs of transporting pupils to and from school. Calculations of the allotments of pupil transportation funds to school districts shall be made in accordance with KRS 157.370, except that the total of the funds allotted under KRS 157.390(7) shall not exceed $86,805,000 in fiscal year 1988-89 and $86,805,000 in fiscal year 1989-90 provided, however, that these sums may be increased by any excess funds appropriated for the School Foundation Program, but no such increases shall exceed the total transportation cost calculated in accordance with KRS 157.370, subject to the approval of the Superintendent of Public Instruction and the Secretary of the Finance and Administration Cabinet, except where provisions to the contrary are stated in this Act.

In the event that the funds appropriated for pupil transportation in fiscal year 1988-89 and fiscal year 1989-90 are insufficient to provide allotments to local school districts in accordance with KRS 157.370, notwithstanding KRS 157.430, the allotments of funds for pupil transportation only to local school districts shall be ratably reduced without reducing other allotments under this appropriation.

Included in the School Foundation Program appropriation is $2,083,600 in fiscal year 1988-89 and $2,083,600 in fiscal year 1989-90 for Vocational Transportation.

f. Power Equalization

1988-89	$ 101,278,300
1989-90	$ 111,278,300

Funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with KRS 157.545 - 157.580, notwithstanding KRS 157.560(2). If funds appropriated for Power Equalization are insufficient to provide allotments to local school districts in accordance with KRS 157.545 - 157.580, the allotments to local school districts shall be ratably reduced.

g. Instruction

1988-89	$ 34,787,200
1989-90	$ 35,366,500

h. Local Services

1988-89	$ 18,412,300
1989-90	$ 17,065,000

Included in the above appropriation is $3,131,600 in fiscal year 1988-89 and $3,182,000 for fiscal year 1989-90 for reimbursement to local school districts for the Out-of-District Children program operated in accordance with KRS 158.135 and applicable regulations. Funds to be expended for the Out-of-District Children program shall be limited to these amounts, and if sufficient funds are not available within these allocated amounts to reimburse each district for the total allowed cost of the program, each allocation shall be ratably reduced to the level of available funds.

The above appropriation also includes $398,800 in fiscal year 1988-89 and $410,500 in fiscal year 1989-90 for school district audits; and $12,134,800 in fiscal year 1988-89 and $10,700,400 in fiscal year 1989-90 for the purchase of textbooks for grades kindergarten through eight. Local school districts shall establish, pursuant to State Board of Education regulations, a process whereby pupils may rent textbooks for a reasonable fee. Textbooks purchased by the State Board of Education, prior to July 1, 1984, for grades nine through twelve shall continue to be loaned or rented to pupils until they are no longer selected and listed by the State Textbook Commission. Rental fees collected by the district shall be used for the maintenance of the textbooks and the purchase of new textbooks.

The textbooks selected by the textbook commission for each subject and grade shall be used as basal texts in school districts for a period of six (6) years.

No appropriation is included in this Act for the replacement of student fees; therefore, public schools may charge students for necessary fees and rentals, and may require students to purchase necessary instructional materials.

i. Vocational Education

1988-89	$ 50,522,500
1989-90	$ 52,208,600

j. Vocational Rehabilitation

1988-89	$ 4,771,300
1989-90	$ 4,890,100

k. Administrative Services and Budget Management

1988-89	$ 6,660,300
1989-90	$ 6,214,400

l. Teacher Retirement Employer Contribution Match

1988-89	$ 6,600,000
1989-90	$ 6,825,000

Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

TOTAL - DEPARTMENT OF EDUCATION

1987-88	$ 18,644,600
1988-89	$ 1,392,922,400
1989-90	$ 1,464,267,000

31. KENTUCKY EDUCATIONAL TELEVISION

1988-89 .... $ 9,854,400

1989-90 .... $ 10,449,500

Included in the above appropriation is $1,897,300 in fiscal year 1988-89 and $1,897,100 in fiscal year 1989-90 for debt service. Within this amount in fiscal year 1988-89 is $1,283,200 and $1,284,100 in fiscal year 1989-90 for debt service for the telecommunications center and the second channel and equipment. Also included in the above appropriation is $455,000 for start-up operating expenses in fiscal year 1989-90 for the Second Channel services.

32. HISTORICAL SOCIETY

1988-89 .... $ 1,742,400

1989-90 .... $ 1,840,800

33. LIBRARIES AND ARCHIVES

a. General Operations

1988-89 .... $ 6,364,400

1989-90 .... $ 6,540,700

Included in the above appropriation is $1,426,000 in fiscal year 1988-89 and $1,422,000 in fiscal year 1989-90 for debt service.

b. Direct Local Aid

1988-89 .... $ 4,063,400

1989-90 .... $ 4,063,400

Included in the above appropriation is $1,455,300 in fiscal year 1988-89 and $1,455,300 in fiscal year 1989-90 for state-aid grants to local public libraries. It is the intent of the General Assembly to distribute these funds according to the formula established by KRS 171.201 at the fiscal year 1988 level of funding, notwithstanding any other provisions of KRS 171.201 to the contrary.

34. DEPARTMENT FOR THE BLIND

1988-89 .... $ 1,248,600

1989-90 .... $ 1,273,200

35. TEACHERS' RETIREMENT SYSTEM

1988-89 .... $ 135,854,200

1989-90 .... $ 135,080,900

Funds are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 through 161.716, notwithstanding the provisions of KRS 161.550.

The above appropriation is based upon estimated funds needed to meet the requirements of KRS 161.220 through 161.716, notwithstanding the provisions of KRS 161.550. In the event the above appropriations are in excess of these requirements, such excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund dollars are provided in fiscal year 1988-89 or fiscal year 1989-90 for the cost of administration.

36. ORAL HISTORY COMMISSION

1988-89	$ 103,400
1989-90	$ 110,800

37. HERITAGE COUNCIL

1988-89	$ 634,100
1989-90	$ 637,900

Included in the above appropriation is $210,000 in fiscal year 1988-89 and $211,800 in fiscal year 1989-90 for the Kentucky Main Street Program.

38. COMMISSION ON THE DEAF AND HEARING IMPAIRED

1988-89	$ 233,000
1989-90	$ 241,100

39. OFFICE OF THE SECRETARY

1988-89	$ 5,308,000
1989-90	$ 5,319,300

Included in the above appropriation is $21,600 in fiscal year 1988-89 and $22,900 in fiscal year 1989-90 for the Client Assistance Program for operations.

40. GOVERNOR'S COMMISSION ON LITERACY

1988-89	$ 811,900
1989-90	$ 815,900

TOTAL EDUCATION AND HUMANITIES

1987-88	$ 18,644,600
1988-89	$ 1,559,140,200
1989-90	$ 1,630,640,500

E. ENERGY

41. KENTUCKY ENERGY CABINET

a. Administration and Support

1988-89	$ 875,400
1989-90	$ 901,400

b. Department of Energy Research and Development

1988-89	$ 6,606,500
1989-90	$ 6,813,900

c. Energy Demonstration Trust Fund

1988-89	$ 3,347,300
1989-90	$ 90,400

Included in the above appropriation is $3,260,000 in fiscal year 1988-89 for final payment to the Tennessee Valley Authority for construction of the atmospheric fluidized bed combustion (AFBC) project located at the Shawnee plant near Paducah.

d. Department of Energy Production and Utilization

1988-89	$ 777,400
1989-90	$ 819,500

TOTAL - ENERGY CABINET

1988-89	$ 11,606,600
1989-90	$ 8,625,200

F. FINANCE AND ADMINISTRATION CABINET

42. FINANCE AND ADMINISTRATION CABINET

a. General Administration

1988-89	$ 2,946,900
1989-90	$ 6,195,900

Included in the above appropriation is $180,000 in fiscal year 1988-89 and $185,000 in fiscal year 1989-90 for payment to the City of Frankfort for the provision of fire and police protection and other services for state-owned property in accordance with KRS 45.021. Also included in the above appropriation is $3,208,600 in fiscal year 1989-90 in the Office for Investment and Debt Management for debt service payments for the Kentucky Community Public Works Program.

b. Department of Administration

1988-89	$ 5,574,800
1989-90	$ 5,364,200

c. Department of Facilities Management

1988-89	$ 8,245,300
1989-90	$ 9,088,300

Included in the above appropriation is $1,134,800 in fiscal year 1988-89 and $1,831,600 in fiscal year 1989-90 which shall be used for debt service for the Capitol and Capitol Annex mechanical and electrical renovation.

TOTAL - FINANCE AND ADMINISTRATION

1988-89	$ 16,767,000
1989-90	$ 20,648,400

G. HIGHER EDUCATION

43. COUNCIL ON HIGHER EDUCATION

1988-89	$ 6,212,500
1989-90	$ 6,375,300

44. HIGHER EDUCATION ASSISTANCE AUTHORITY

1988-89	$ 11,801,700
1989-90	$ 11,801,700

Included in the above appropriation is $5,143,100 in fiscal year 1988-89 and $5,143,100 in fiscal year 1989-90 for Kentucky Tuition Grants. The above appropriation also includes $6,158,600 in fiscal year 1988-89 and $6,158,600 in fiscal year 1989-90 for State Student Incentive Grants.

Also included is $500,000 in fiscal year 1988-89 and $500,000 in fiscal year 1989-90 for Math and Science Scholarships.

45. EASTERN KENTUCKY UNIVERSITY

1988-89	$ 43,797,200
1989-90	$ 45,738,100

Included in the above appropriation is $3,327,800 in fiscal year 1988-89 and $3,457,400 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

46. KENTUCKY STATE UNIVERSITY

1988-89	$ 15,149,500
1989-90	$ 15,726,600

Included in the above appropriation is $1,608,700 in fiscal year 1988-89 and $1,616,200 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

47. MOREHEAD STATE UNIVERSITY

1988-89 .... $ 26,466,700

1989-90 .... $ 27,984,500

Included in the above appropriation is $2,068,900 in fiscal year 1988-89 and $2,422,700 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

48. MURRAY STATE UNIVERSITY

1988-89 .... $ 33,380,300

1989-90 .... $ 34,679,100

Included in the above appropriation is $3,081,600 in fiscal year 1988-89 and $3,189,800 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

49. NORTHERN KENTUCKY UNIVERSITY

1988-89 .... $ 24,608,900

1989-90 .... $ 25,496,400

Included in the above appropriation is $3,513,600 in fiscal year 1988-89 and $3,512,500 in fiscal year 1989-90 for debt service.

50. UNIVERSITY OF KENTUCKY

1988-89 .... $ 227,494,400

1989-90 .... $ 240,526,400

Included in the above appropriation is $15,732,300 in fiscal year 1988-89 and $17,467,300 in fiscal year 1989-90 for debt service. Of the stated debt service amounts, $4,658,100 in fiscal year 1988-89 and $5,215,400 in fiscal year 1989-90 are for the Community College System.

Included in the above appropriation is an amount for the Community College System which shall not be less than $41,972,300 in fiscal year 1988-89 and $45,327,600 in fiscal year 1989-90.

51. UNIVERSITY OF LOUISVILLE

1988-89 .... $ 112,174,600

1989-90 .... $ 117,326,500

Included in the above appropriation is $9,949,600 in fiscal year 1988-89 and $9,944,000 in fiscal year 1989-90 for debt service. Also included in the above appropriation is $11,547,100 in fiscal year 1988-89 and $12,055,200 in fiscal year 1989-90 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished by Humana Hospital-University. The appropriation related to indigent care in the first year of the biennium shall continue into the second year, for this purpose. Any unused portion of the appropriation relating to indigent care shall lapse to the credit of the General Fund at the end of fiscal year 1989-90.

52. WESTERN KENTUCKY UNIVERSITY

1988-89	$ 42,111,100
1989-90	$ 44,237,300

Included in the above appropriation is $2,431,400 in fiscal year 1988-89 and $2,533,400 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560.

TOTAL - HIGHER EDUCATION

1988-89	$ 543,196,900
1989-90	$ 569,891,900

H. HUMAN RESOURCES

53. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1988-89	$ 32,395,700
1989-90	$ 34,988,700

The Department for Social Insurance shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $50 per day plus travel expenses.

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy and/or Medicaid Benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance and of the Department for Medicaid Services. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1988-89	$ 53,755,600
1989-90	$ 55,796,600

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. No portion of this appropriation may be used for the costs of administration.

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits, such amount, with the approval of the Governor, may be transferred from the Department for Social Insurance Benefits appropriation to the Department for Medicaid Services Benefits appropriation to avoid a projected deficit provided no reduction in services or eligibles will result from the transfer. Such transfer shall be approved by the Secretary of the Finance and Administration Cabinet after concurrence by the State Budget Director of the Governor's Office for Policy and Management. Such transfer shall be reported promptly to the Interim Joint Committee on Appropriations and Revenue. In no instance shall these excess funds be used to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates or payment levels in an existing program.

b. Department for Medicaid Services

1. Administration

1988-89	$ 9,691,000
1989-90	$ 10,002,800

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Medicaid Benefits and/or Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Medicaid Services and of the Department for Social Insurance. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1988-89	$ 210,496,500
1989-90	$ 227,032,200

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services. No portion of this appropriation may be used for the costs of administration.

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits, such amount, with the approval of the Governor, may be transferred from the Department for Medicaid Services Benefits appropriation to the Department for Social Insurance Benefits appropriation to avoid a projected deficit, provided no reduction in services or eligibles will result from the transfer. Such transfer shall be approved by the Secretary of the Finance and Administration Cabinet after concurrence by the State Budget Director of the Governor's Office for Policy and Management. Such transfer shall be reported promptly to the Interim Joint Committee on Appropriations and Revenue. In no instance shall these funds be used to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates of payment levels in an existing program.

c. Department for Employment Services

1988-89	$ 12,800,000
1989-90	$ 200,000

Included in the above appropriation is $12,600,000 in fiscal year 1988-89 for training services associated with the Industrial Development Training Project. Any unexpended balance in fiscal year 1987-88 shall be continued in fiscal year 1988-89 and any unexpended balance in fiscal year 1988-89 shall be continued into fiscal year 1989-90.

d. Department for Health Services

1988-89	$ 40,507,800
1989-90	$ 40,962,500

e. Department for Mental Health/Mental Retardation Services

1988-89	$ 84,887,500
1989-90	$ 87,977,500

Included in the above appropriation is $4,193,600 in fiscal year 1988-89 and $4,193,600 in fiscal year 1989-90 for debt service.

f. Department for Social Services

1988-89	$ 81,366,700
1989-90	$ 84,869,300

g. Administration and Program Support

1988-89	$ 15,544,600
1989-90	$ 17,017,200

Included in the above appropriation is $5,044,700 in fiscal year 1988-89 and $5,683,700 in fiscal year 1989-90 for debt service.

TOTAL - HUMAN RESOURCES CABINET

1988-89	$ 541,445,400
1989-90	$ 558,846,800

54. Commission for Handicapped Children

1988-89	$ 6,799,500
1989-90	$ 6,870,800

55. Commission for Health Economics Control in Kentucky

1988-89	$ 586,400
1989-90	$ 643,000

TOTAL - HUMAN RESOURCES

1988-89	$ 548,831,300
1989-90	$ 566,360,600

I. JUSTICE

56. JUSTICE CABINET

a. Department of State Police

1988-89	$ 28,145,900
1989-90	$ 29,498,900

Included in the above appropriation is $752,000 in fiscal year 1988-89 and in fiscal year 1989-90 for the Kentucky Early Warning System (KEWS) operation.

Included in the above appropriation is debt service of $214,900 in each fiscal year for the automated fingerprint system and $87,800 in each fiscal year for a new State Police post at Mayfield.

Also provided in the above appropriation is $2,100,000 in fiscal year 1988-89 and $1,875,000 in fiscal year 1989-90 for the purchase of approximately 325 state police vehicles. It is the intention of the General Assembly that savings which may accrue from the purchase of gasoline may be used for additional vehicle purchases.

There is hereby appropriated to the Department of State Police funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b. Justice Administration

1988-89	$ 1,671,300
1989-90	$ 1,713,100

TOTAL - JUSTICE CABINET

1988-89	$ 29,817,200
1989-90	$ 31,212,000

J. LABOR

57. LABOR CABINET

a. General Administration and Support

1988-89 .... $ 155,100

1989-90 .... $ 158,900

b. Department of Workplace Standards

1988-89 .... $ 1,454,400

1989-90 .... $ 1,504,700

TOTAL - LABOR CABINET

1988-89 .... $ 1,609,500

1989-90 .... $ 1,663,600

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

58. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1988-89 .... $ 6,446,900

1989-90 .... $ 6,636,600

Not less than $60,000 of the appropriation for each fiscal year shall be set aside from emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is hereby appropriated; provided, however, that the Secretary of the Finance and Administration Cabinet shall certify as to the advisability of such expenditure and the Governor shall approve such expenditure by written order.

b. Department for Environmental Protection

1988-89 .... $ 11,750,400

1989-90 .... $ 12,349,600

Included in the above appropriation is $871,600 in fiscal year 1988-89 and $1,466,300 in fiscal year 1989-90 for debt service.

c. Department for Surface Mining Reclamation and Enforcement

1988-89 .... $ 9,287,900

1989-90 .... $ 9,572,400

Included in the above appropriation is $1,000,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is hereby appropriated to the Department.

d. General Administration and Support

1988-89 .... $ 2,574,100

1989-90 .... $ 2,725,300

TOTAL-NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

1988-89 .... $ 30,059,300

1989-90 .... $ 31,283,900

59. ENVIRONMENTAL QUALITY COMMISSION

1988-89 .... $ 87,000

1989-90 .... $ 90,700

60. KENTUCKY NATURE PRESERVES COMMISSION

1988-89 .... $ 245,600

1989-90 .... $ 275,300

TOTAL-NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1988-89 .... $ 30,391,900

1989-90 .... $ 31,649,900

L. PUBLIC PROTECTION AND REGULATION

61. OFFICE OF THE SECRETARY

1988-89 .... $ 385,600

1989-90 .... $ 402,000

62. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1988-89 .... $ 1,568,700

1989-90 .... $ 1,626,000

63. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION BOARD

1988-89 .... $ 424,900

1989-90 .... $ 542,300

64. BOARD OF TAX APPEALS

1988-89	$ 218,600
1989-90	$ 227,700

65. DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

1988-89	$ 2,103,800
1989-90	$ 1,995,700

66. KENTUCKY STATE RACING COMMISSION

1988-89	$ 484,900
1989-90	$ 460,900

67. KENTUCKY HARNESS RACING COMMISSION

1988-89	$ 558,600
1989-90	$ 583,400

68. DEPARTMENT OF MINES AND MINERALS

1988-89	$ 7,029,800
1989-90	$ 7,267,000

69. DEPARTMENT OF PUBLIC ADVOCACY

1988-89	$ 7,861,400
1989-90	$ 8,040,700

70. PUBLIC SERVICE COMMISSION

1988-89	$ 4,623,100
1989-90	$ 5,344,600

Included in the above appropriation is $150,000 in fiscal year 1989-90 which may be used for the capital project in Part V.

71. REGISTRY OF ELECTION FINANCE

1988-89	$ 288,000
1989-90	$ 295,900

TOTAL-PUBLIC PROTECTION AND REGULATION CABINET

1988-89	$ 25,547,400
1989-90	$ 26,786,200

M. REVENUE CABINET

a. General Administration and Support

1988-89	$ 4,692,000
1989-90	$ 4,828,900

Included in the above appropriation is the funding for the Office of the Secretary, and the programs of the Department of Professional and Support Services.

b. Property Valuation Administrators

1988-89	$ 11,997,900
1989-90	$ 11,997,900

c. Department of Processing and Enforcement

1988-89	$ 25,841,300
1989-90	$ 26,110,700

d. Department of Property Taxation

1988-89	$ 3,856,100
1989-90	$ 3,946,500

TOTAL-REVENUE CABINET

1988-89	$ 46,387,300
1989-90	$ 46,884,000

N. TOURISM

72. SECRETARY

1988-89	$ 708,300
1989-90	$ 745,400

73. BREAKS INTERSTATE PARK

1988-89	$ 175,000
1989-90	$ 225,000

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

74. DEPARTMENT OF TRAVEL DEVELOPMENT

1988-89	$ 5,906,100
1989-90	$ 5,961,900

75. DEPARTMENT OF PARKS

1988-89	$ 18,462,900
1989-90	$ 18,297,300

Included in the above appropriation is $822,000 in fiscal year 1988-89 and $826,000 in fiscal year 1989-90 for debt service for Project 45 and the projects identified in Part V.

76. KENTUCKY HORSE PARK

1988-89	$ 1,853,300
1989-90	$ 1,817,400

Included is $1,326,000 in fiscal year 1988-89 and $1,329,000 in fiscal year 1989-90 for the debt service requirement of the Project 29 Revenue Bonds.

77. STATE FAIR BOARD

1988-89	$ 7,553,300
1989-90	$ 8,282,300

Included in the above appropriation is at least $7,178,600 in fiscal year 1988-89 and $7,910,000 in fiscal year 1989-90 for debt service. Also included in the above appropriations is $374,700 in fiscal year 1988-89 and $372,300 in fiscal year 1989-90 for the North American International Livestock Exposition.

6 TOTAL-TOURISM CABINET

1988-89	$ 34,658,900
1989-90	$ 35,329,300

O. TRANSPORTATION

78. TRANSPORTATION CABINET

a. General Administration and Support

1988-89	$ 256,500
1989-90	$ 254,900

b. Air Transportation

1988-89	$ 513,200
1989-90	$ 533,500

c. Rail Transportation

1988-89	$ 83,400
1989-90	$ 84,800

d. Public Transportation

1988-89	$ 35,800
1989-90	$ 37,400

TOTAL-TRANSPORTATION CABINET

1988-89	$ 888,900
1989-90	$ 910,600

TOTAL-EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1987-88	$ 23,204,600
1988-89	$ 3,185,111,800
1989-90	$ 3,341,806,800

PART II

TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1989, and for the fiscal year ending June 30, 1990, all of the fees (which include fees for board and room athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, 45, and 48.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1988-89 or fiscal year 1989-90 and any balance forwarded to the credit of any such account from the previous year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administration Cabinet; provided, however, that institutions of higher education may receive and expend all trust and agency funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1989, and during the fiscal year ending June 30, 1990 all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures, a comparative statement of any revised estimated receipts and expenditures with amounts provided in the Executive Budget as adopted by the 1988 General Assembly, and statements which explain the occurrence of such variances.

In the event a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management, the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. SECRETARY OF STATE

All operating receipts from all activities of the Office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

2. BOARD OF ELECTIONS

1988-89	$ 90,000
1989-90	$ 90,000

3. TREASURY

1988-89	$ 165,000
1989-90	$ 165,000

4. DEPARTMENT OF LAW

1988-89	$ 1,142,200
1989-90	$ 1,170,600

Included in the above appropriation is $184,500 in FY 1988-89 and $189,900 in FY 1989-90 for the asbestos litigation team. The Secretary of Finance and Administration shall assess each budget unit of the state an amount based on their pro-rata share of state-owned space sufficient to fund the Asbestos Litigation Team as provided in this appropriation.

5. COUNTY ATTORNEY

1988-89	$ 500
1989-90	$ 500

6. AUDITOR OF PUBLIC ACCOUNTS

1988-89	$ 1,201,600

1989-90	$ 1,246,800

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any monies due that county government for the term of one hundred and twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting County Audits if additional revenues are needed to continue the operation of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) will change the method by which federal monies to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1988 General Assembly.

7. DEPARTMENT OF MILITARY AFFAIRS

1988-89	$ 880,300
1989-90	$ 801,700

8. DEPARTMENT OF PERSONNEL

a. General Operations

1988-89	$ 268,900
1989-90	$ 68,700

b. Workers' Compensation Benefits and Reserve

1988-89	$ 8,329,100
1989-90	$ 8,545,200

The above appropriations represent estimates of the funds necessary to operate this program. In the event that additional funds are required to adequately maintain this program, it is the intent of the General Assembly that such necessary funds are hereby appropriated.

c. Public Employees Deferred Compensation System

1988-89	$ 283,700
1989-90	$ 292,100

9. DEPARTMENT OF LOCAL GOVERNMENT

1988-89	$ 867,700
1989-90	$ 760,000

10. COUNTY FEES

	1988-89	1989-90
Jefferson County	11,781,000	12,134,400
Kenton County	2,022,000	2,082,700
Campbell County	1,116,100	1,149,600
Fayette County	3,795,400	3,909,300
Daviess County	1,194,300	1,230,100
Pike County	1,347,700	1,388,100

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, Daviess, and Pike are for paying the various officials of each county enumerated, seventy-five percent (75%) of the fees provided by law.

This is to be paid, by the State, to these officials when their claims for fees have been presented in the form and manner prescribed by law and approved by the Secretary of the Finance and Administration Cabinet. Each Fiscal Court of said counties are to receive twenty-five percent (25%) of said fees as required by KRS 64.350.

11. KENTUCKY RETIREMENT SYSTEMS

1988-89	$ 2,960,700
1989-90	$ 3,011,800

12. CAPITAL PLAZA

1988-89	$ 1,771,900
1989-90	$ 1,823,100

Included above is $1,458,400 in fiscal year 1988-89 and $1,463,200 in fiscal year 1989-90 for debt service payment of the Capital Plaza. Also included in the above appropriation is $313,500 in fiscal year 1988-89 and $359,900 in fiscal year 1989-90 for general operations.

13. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	1988-89	1989-90
a. Board of Accountancy	294,700	299,300
b. Board of Architects	83,700	85,300
c. Athletic Commission	97,500	100,000
d. Board of Auctioneers	127,000	128,900
e. Board of Barbers	114,800	116,300
f. Board of Chiropractic Examiners	47,100	48,700
g. Board of Dental Examiners	181,900	185,500

h. Board of Embalmers and Funeral Directors	102,000	103,300
i. Board of Engineers and Land Surveyors	301,700	307,700
j. Board of Hairdressers and Cosmetologists	409,800	416,900
k. Board of Hearing Aid Dealers	12,400	12,400
l. Board of Landscape Architecture	13,100	13,100
m. Board of Medical Licensure	620,700	623,100
n. Board of Nurses	959,200	979,200
o. Nursing Home Administrators Licensure Board	43,500	43,500
p. Board of Occupational Therapy	9,700	9,800
q. Board of Ophthalmic Dispensers	7,200	7,200
r. Board of Optometric Examiners	43,900	45,000
s. Board of Pharmacy	314,600	324,500
t. Board of Physical Therapy	64,500	66,100
u. Board of Podiatry	3,000	3,000
v. Board of Proprietary Education	83,300	85,900
w. Board of Psychology	42,200	42,200
x. Real Estate Commission		
1. Examination and Licensing	818,100	781,700
2. Real Estate Education Research and Recovery	600,800	569,000
y. Board of Social Workers	44,500	44,500
z. Board of Speech Pathologists and Audiologists	22,700	22,700
aa. Board of Veterinary Examiners	141,200	144,400

14. GOVERNMENTAL SERVICES CENTER

1988-89 . . . . $ 881,600

1989-90 . . . . $ 904,500

15. COMMISSION ON WOMEN

1988-89 . . . . $ 1,000

1989-90 . . . . $ 2,200

16. DEPARTMENT OF AGRICULTURE

1988-89 . . . . $ 648,900

1989-90 . . . . $ 652,900

17. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

1987-88 . . . . $ 49,224,400

1988-89 . . . . $ 85,989,700

1989-90 . . . . $ 91,018,700

B. COMMERCE

18. OFFICE OF THE SECRETARY

1988-89 . . . . $ 194,600

1989-90 . . . . $ 195,100

19. DEPARTMENT OF ECONOMIC DEVELOPMENT

1988-89 . . . . $ 374,500

1989-90 . . . . $ 369,900

20. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1988-89 . . . . $ 503,900

1989-90 . . . . $ 514,800

21. DEPARTMENT OF THE ARTS

1988-89 . . . . $ 240,900

1989-90 . . . . $ 250,800

22. TOBACCO RESEARCH BOARD

1988-89 . . . . $ 12,900

1989-90 . . . . $ 13,300

C. CORRECTIONS

23. CORRECTIONS CABINET

1988-89 . . . . $ 9,316,600

1989-90	$ 9,295,000

D. EDUCATION AND HUMANITIES

24. DEPARTMENT OF EDUCATION

a. General Administration	
1988-89	$ 2,015,000
1989-90	$ 2,047,400
b. Education for Exceptional Children	
1988-89	$ 388,500
1989-90	$ 353,300
c. Instruction	
1988-89	$ 97,700
1989-90	$ 95,300
d. Local Services	
1988-89	$ -0-
1989-90	$ -0-
e. Vocational Education	
1988-89	$ 22,923,800
1989-90	$ 23,240,300
f. Vocational Rehabilitation	
1988-89	$ 601,600
1989-90	$ 615,000
g. Administrative Services and Budget Management	
1988-89	$ 174,100
1989-90	$ 117,700

25. KENTUCKY EDUCATIONAL TELEVISION

1988-89	$ 168,000
1989-90	$ 273,500

26. HISTORICAL SOCIETY

1988-89	$ 380,400
1989-90	$ 349,600

27. LIBRARY AND ARCHIVES

1988-89	$ 720,100
1989-90	$ 725,800

28. DEPARTMENT FOR THE BLIND

1988-89	$ 1,947,900
1989-90	$ 1,960,400

29. ORAL HISTORY COMMISSION

1988-89	$ 200
1989-90	$ -0-

30. HERITAGE COUNCIL

1988-89	$ 500
1989-90	$ 17,500

31. TEACHERS' RETIREMENT SYSTEM

1988-89	$ 2,585,500
1989-90	$ 2,663,100

E. ENERGY

32. KENTUCKY ENERGY CABINET

1988-89	$ 591,000
1989-90	$ 586,900

F. FINANCE AND ADMINISTRATION

33. FINANCE AND ADMINISTRATION CABINET

a. General Administration

1988-89	$ 583,300
1989-90	$ 610,800

Included in the above appropriation is $87,400 in FY 1988-89 and $91,400 in fiscal year 1989-90 for the operations of the Office of Internal Audit.

b. State Office for Social Security

1988-89	$ 217,100
1989-90	$ 216,500

c. Department of Administration

1988-89	$ 8,236,300
1989-90	$ 8,390,700

d. Department of Facilities Management

1988-89	$ 22,521,900
1989-90	$ 23,282,400

e. Department of Information Systems

1988-89	$ 27,089,600
1989-90	$ 27,803,800

G. HIGHER EDUCATION

34. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

1988-89	$ 5,795,400
1989-90	$ 5,956,600

Included in the above appropriation is $1,000,000 in fiscal year 1988-89 and $1,000,000 in fiscal year 1989-90 for Teachers' Scholarships. Also included is $50,000 in fiscal year 1988 and 1989 and fiscal year 1989-90 for Math/Science Scholarships.

35. EASTERN KENTUCKY UNIVERSITY

1988-89	$ 38,989,600
1989-90	$ 39,737,800

36. KENTUCKY STATE UNIVERSITY

1988-89	$ 6,245,200
1989-90	$ 6,490,300

37. MOREHEAD STATE UNIVERSITY

1988-89	$ 20,782,500

1989-90	$ 21,917,400

38. MURRAY STATE UNIVERSITY

1988-89	$ 25,629,900
1989-90	$ 27,206,500

39. NORTHERN KENTUCKY UNIVERSITY

1988-89	$ 17,639,400
1989-90	$ 17,924,100

40. UNIVERSITY OF KENTUCKY

1988-89	$ 285,703,900
1989-90	$ 295,915,200

41. UNIVERSITY OF LOUISVILLE

1988-89	$ 110,097,300
1989-90	$ 111,986,400

42. WESTERN KENTUCKY UNIVERSITY

1988-89	$ 34,084,700
1989-90	$ 37,073,500

H. HUMAN RESOURCES

43. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1988-89	$ 10,948,900
1989-90	$ 11,437,100

2. Benefits

1988-89	$ 6,182,000
1989-90	$ 5,984,000

b. Department for Medicaid Services

1. Benefits

1988-89	$ 2,500,000
1989-90	$ 2,500,000

c. Department for Employment Services

1988-89	$ 7,831,300
1989-90	$ 7,363,200

d. Department for Health Services

1988-89	$ 8,253,300
1989-90	$ 8,391,600

e. Department for Mental Health/Mental Retardation

1988-89	$ 42,838,800
1989-90	$ 44,067,500

f. Department for Social Services

1988-89	$ 2,088,300
1989-90	$ 2,047,500

g. Administration and Program Support

1988-89	$ 6,364,600
1989-90	$ 6,315,900

h. Commission for Handicapped Children

1988-89	$ 664,100
1989-90	$ 684,100

i. Commission for Health Economics in Kentucky

1988-89	$ 149,100
1989-90	$ 120,000

I. JUSTICE

44. JUSTICE CABINET

a. Criminal Justice Training

1988-89	$ 10,820,300

1989-90	$ 11,008,600

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to his regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $8,300,000 in fiscal year 1988-89 and $8,400,000 in fiscal year 1989-90 for training incentive payments pursuant to KRS 15.430, from receipts pursuant to KRS 136.392.

Also included in the above appropriation is $2,520,300 in fiscal year 1989 and $2,608,600 in fiscal year 1990 for the cost of operating the Department of Criminal Justice Training, for the operation of the Kentucky Law Enforcement Council Program and the administration of the Kentucky Law Enforcement Foundation Program Fund. Any provisions to the contrary codified in KRS 15.430-510 or KRS 42.190 are hereby suspended.

b. Department of State Police

1988-89	$ 1,628,400
1989-90	$ 1,677,200

c. Justice Administration

1988-89	$ 1,027,400
1989-90	$ 960,900

J. LABOR

45. LABOR CABINET

a. General Administration and Support

1988-89	$ 3,848,800
1989-90	$ 3,958,000

b. Department of Workplace Standards

1988-89	$ 76,809,900
1989-90	$ 79,012,800

c. Department of Workers' Claims

1988-89	$ 5,407,000
1989-90	$ 5,050,500

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

46. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1988-89	$ 7,360,800

1989-90	$ 7,566,200

b. Department for Environmental Protection

1988-89	$ 925,900
1989-90	$ 1,282,300

c. Department for Surface Mining Reclamation and Enforcement

1988-89	$ 156,900
1989-90	$ 160,800

d. General Administration and Support

1988-89	$ 80,900
1989-90	$ 16,600

47. KENTUCKY NATURE PRESERVES COMMISSION

1988-89	$ 50,000
1989-90	$ 50,000

L. PUBLIC PROTECTION AND REGULATION

648. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1988-89	$ 3,500
1989-90	$ 3,500

49. DEPARTMENT OF FINANCIAL INSTITUTIONS

1988-89	$ 3,247,600
1989-90	$ 3,351,600

50. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

1988-89	$ 755,600
1989-90	$ 656,500

51. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1988-89	$ 12,474,400
1989-90	$ 12,797,300

52. DEPARTMENT OF INSURANCE

1988-89	$ 4,940,000
1989-90	$ 5,018,900

53. KENTUCKY STATE RACING COMMISSION

1988-89	$ 4,209,000
1989-90	$ 4,313,900

Included in the above appropriation is $511,600 in fiscal year 1988-89 and $553,300 in fiscal year 1989-90 for the Backside Improvement Commission.

54. KENTUCKY HARNESS RACING COMMISSION

1988-89	$ 1,298,900
1989-90	$ 1,332,900

55. DEPARTMENT OF MINES AND MINERALS

1988-89	$ 647,800
1989-90	$ 647,800

56. DEPARTMENT OF PUBLIC ADVOCACY

1988-89	$ 205,000
1989-90	$ 210,000

57. PUBLIC SERVICE COMMISSION

1988-89	$ 57,000
1989-90	$ 37,000

M. REVENUE

58. REVENUE CABINET

a. General Administration and Support

1988-89	$ 20,000
1989-90	$ 20,000

General Administration and Support is comprised of the Office of the Secretary and the Department of Professional and Support Services.

b. Property Valuation Administrators

1988-89	$ 1,868,300
1989-90	$ 2,564,400

c. Department of Processing and Enforcement

1988-89	$ 614,900
1989-90	$ 633,300

d. Department of Property Taxation

1988-89	$ 966,100
1989-90	$ 1,039,900

N. TOURISM

59. DEPARTMENT OF PARKS

1988-89	$ 31,023,600
1989-90	$ 32,195,800

Included in the above appropriation is $727,000 in fiscal year 1988-89 and $829,000 in fiscal year 1989-90 for the debt service on revenue bonds issued for Project 14 and Project 16 issued in 1965 and 1967, respectively.

60. KENTUCKY HORSE PARK

1988-89	$ 3,226,100
1989-90	$ 3,333,100

61. KENTUCKY STATE FAIR BOARD

1988-89	$ 14,811,500
1989-90	$ 15,080,500

62. FISH AND WILDLIFE RESOURCES

1988-89	$ 14,662,200
1989-90	$ 15,127,700

O. TRANSPORTATION

63. TRANSPORTATION CABINET

a. Air Transportation

1988-89	$ 219,800
1989-90	$ 219,800

b. Public Transportation

1988-89	$ 369,100

1989-90	$ 370,700

c. Highways

1988-89	$ 530,500
1989-90	$ 546,400

TOTAL EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1987-88	$ 49,224,400
1988-89	$ 1,071,285,500
1989-90	$ 1,105,409,700

Included in the above amounts is $11,230,000 in fiscal year 1988-89 and $9,530,000 in fiscal year 1989-90 for capital projects funded in Part V.

PART III

FEDERAL FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1989, and for the fiscal year ending June 30, 1990, Federal subventions, grants, contracts and other Federal Funds received, income from investments and other miscellaneous Federal receipts received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Federal Fund out of which shall be established separate accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All Funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, 45, and 48.

If receipts received and credited to any Federal Fund account during fiscal year 1988-89 or fiscal year 1989-90, and any balance forwarded to the credit of any such account from the previous fiscal year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administration Cabinet; provided, however, that institutions of higher education may receive and expend all Federal Funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Federal Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1989, and during the fiscal year June 30, 1990, all receipts placed to the credit of the Federal Fund for such year, out of which has been established a Federal Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures for the ensuing fiscal year, a comparison of any revised estimates with the amounts provided in the Executive Budget as adopted by the 1988 General Assembly, and statements which explain the occurrence of such variances.

If a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management the credit and expenditure of such funds for statutory purposes.

The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

No state agency which shall be entitled to receive federal funds which would represent one hundred percent (100%) of the cost of a program in which the state participates shall decline to accept or receive such entitlement without notification to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. DEPARTMENT OF LAW

1988-89	$ 1,355,900
1989-90	$ 1,369,900

2. COMMONWEALTH'S ATTORNEY

1988-89	$ 1,000
1989-90	$ 2,000

3. DEPARTMENT OF AGRICULTURE

1988-89	$ 1,798,100
1989-90	$ 1,389,400

4. DEPARTMENT OF MILITARY AFFAIRS

1988-89	$ 3,081,900
1989-90	$ 3,175,300

5. DEPARTMENT OF LOCAL GOVERNMENT

1988-89	$ 26,098,100
1989-90	$ 25,558,100

6. DEPARTMENT OF PERSONNEL

1988-89	$ 724,600
1989-90	$ 691,300

7. HUMAN RIGHTS COMMISSION

1988-89	$ 57,300
1989-90	$ 63,100

B. COMMERCE

8. OFFICE OF THE SECRETARY

1988-89	$ 163,200

9. DEPARTMENT OF THE ARTS

1988-89	$ 472,000
1989-90	$ 472,000

C. CORRECTIONS

10. CORRECTIONS CABINET

1988-89	$ 320,300
1989-90	$ 320,300

D. EDUCATION AND HUMANITIES

11. DEPARTMENT OF EDUCATION

a. General Administration

1988-89	$ 90,400,900
1989-90	$ 90,379,500

b. Education for Exceptional Children

1988-89	$ 28,218,300
1989-90	$ 25,623,400

c. Instruction

1988-89	$ 83,990,300
1989-90	$ 85,635,000

d. Vocational Education

1988-89	$ 20,324,800
1989-90	$ 20,609,400

e. Vocational Rehabilitation

1988-89	$ 23,626,000
1989-90	$ 23,983,700

f. Administrative Services and Budget Management

1988-89	$ 647,100
1989-90	$ 1,424,300

12. OFFICE OF THE SECRETARY

1988-89	$ 100,700
1989-90	$ 103,700

13. LIBRARIES AND ARCHIVES

1988-89	$ 2,260,000
1989-90	$ 1,906,000

14. KENTUCKY EDUCATIONAL TELEVISION

1988-89	$ 18,000
1989-90	$ 18,000

15. DEPARTMENT FOR THE BLIND

1988-89	$ 4,180,400
1989-90	$ 4,207,300

16. GOVERNOR'S COUNCIL ON VOCATIONAL EDUCATION

1988-89	$ 129,300
1989-90	$ 134,000

17. HERITAGE COUNCIL

1988-89	$ 540,100
1989-90	$ 542,500

E. ENERGY

18. KENTUCKY ENERGY CABINET

1988-89	$ 450,800
1989-90	$ 378,700

F. HIGHER EDUCATION

19. HIGHER EDUCATION ASSISTANCE AUTHORITY

1988-89	$ 1,179,000
1989-90	$ 1,179,000
20. COUNCIL ON HIGHER EDUCATION	
1988-89	$ 350,000
1989-90	$ 350,000
21. EASTERN KENTUCKY UNIVERSITY	
1988-89	$ 7,611,800
1989-90	$ 7,671,100
22. KENTUCKY STATE UNIVERSITY	
1988-89	$ 6,247,600
1989-90	$ 6,451,900
23. MOREHEAD STATE UNIVERSITY	
1988-89	$ 3,622,100
1989-90	$ 3,622,100
24. MURRAY STATE UNIVERSITY	
1988-89	$ 4,174,100
1989-90	$ 4,174,100
25. NORTHERN KENTUCKY UNIVERSITY	
1988-89	$ 1,665,900
1989-90	$ 1,665,900
26. UNIVERSITY OF KENTUCKY	
1988-89	$ 48,946,200
1989-90	$ 50,981,200
27. UNIVERSITY OF LOUISVILLE	
1988-89	$ 13,232,300
1989-90	$ 13,232,300
28. WESTERN KENTUCKY UNIVERSITY	

1988-89	$ 5,281,900
1989-90	$ 5,281,900

G. HUMAN RESOURCES

29. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1988-89	$ 55,295,400
1989-90	$ 52,831,000

2. Benefits

1988-89	$ 139,455,200
1989-90	$ 145,887,000

b. Department for Medicaid Services

1. Administration

1988-89	$ 15,859,500
1989-90	$ 15,871,200

2. Benefits

1988-89	$ 567,686,100
1989-90	$ 626,956,600

c. Department for Employment Services

1. Administration - Unemployment Insurance

1988-89	$ 16,829,800
1989-90	$ 17,596,700

2. Benefits - Unemployment

1988-89	$ 156,600,000
1989-90	$ 162,300,000

3. Employment Services

1988-89	$ 79,956,500

1989-90 . . . . $ 82,753,500

d. Department for Health Services

1988-89 . . . . $ 69,439,500

1989-90 . . . . $ 70,831,900

e. Department for Mental Health/Mental Retardation Services

1988-89 . . . . $ 10,964,300

1989-90 . . . . $ 11,279,600

f. Department for Social Services

1988-89 . . . . $ 74,414,500

1989-90 . . . . $ 74,028,800

g. Administration and Program Support

1988-89 . . . . $ 14,462,500

1989-90 . . . . $ 14,486,000

h. Commission for Handicapped Children

1988-89 . . . . $ 3,237,800

1989-90 . . . . $ 3,237,800

H. JUSTICE

30. JUSTICE CABINET

a. Justice Administration

1988-89 . . . . $ 4,377,500

1989-90 . . . . $ 3,471,500

b. Department of State Police

1988-89 . . . . $ 4,940,500

1989-90 . . . . $ 4,688,500

I. LABOR

31. LABOR CABINET

a. Department of Workplace Standards

1988-89	$ 4,055,500
1989-90	$ 4,133,100

b. Kentucky Occupational Safety and Health Review Commission

1988-89	$ 316,000
1989-90	$ 323,800

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

32. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1988-89	$ 4,669,300
1989-90	$ 4,596,500

b. Department for Environmental Protection

1988-89	$ 6,707,700
1989-90	$ 6,852,400

c. Department for Surface Mining Reclamation and Enforcement

1988-89	$ 12,372,600
1989-90	$ 12,274,600

d. General Administration and Support

1988-89	$ 1,797,000
1989-90	$ 1,839,000

e. Kentucky Nature Preserves Commission

1988-89	$ 41,600
1989-90	$ 37,700

K. PUBLIC PROTECTION AND REGULATION

33. DEPARTMENT OF MINES AND MINERALS

1988-89	$ 530,000
1989-90	$ 530,000

34. DEPARTMENT OF PUBLIC ADVOCACY

1988-89	$ 463,400
1989-90	$ 460,100

35. PUBLIC SERVICE COMMISSION

1988-89	$ 157,100
1989-90	$ 162,800

36. DEPARTMENT OF INSURANCE

1988-89	$ 241,600
1989-90	$ 276,700

37. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

1988-89	$ 300,000
1989-90	$ 300,000

38. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1988-89	$ 10,300
1989-90	$ 10,600

L. TRANSPORTATION

39. TRANSPORTATION CABINET

a. Air Transportation

1988-89	$ 12,700
1989-90	$ 13,000

b. Rail Transportation

1988-89	$ 50,000
1989-90	$ 50,000

c. Public Transportation

1988-89	$ 2,500,000
1989-90	$ 2,500,000

d. Highways

1988-89	$ 217,467,100

1989-90 . . . . $ 230,516,500

If federal receipts due to the Commonwealth are in excess of the above appropriations, such funds are hereby appropriated.

TOTAL - EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1988-89 . . . . $ 1,846,481,000

1989-90 . . . . $ 1,933,693,300

Included in the above amounts is $165,000 in fiscal year 1988-89 and $1,365,000 in fiscal year 1989-90 for capital projects directly funded in Part V.

PART IV

ROAD FUND

KRS 48.010(13)(g) provides that the Road Fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and monies derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways.

The following monies are appropriated from the Road Fund:

A. JUSTICE

1. JUSTICE CABINET

a. Department of State Police

1988-89 . . . . $ 35,000,000

1989-90 . . . . $ 35,000,000

It is the intent of the General Assembly that the above appropriations be expended solely for the enforcement of state traffic and motor vehicle laws.

B. TRANSPORTATION

2. TRANSPORTATION CABINET

a. General Administration and Support

1988-89 . . . . $ 54,632,800

1989-90 . . . . $ 53,583,600

b. Highways

1988-89 . . . . $ 608,653,300

1989-90 . . . . $ 614,956,400

1. Included within the above appropriation is $76,776,900 in fiscal year 1988-89 and $71,859,200 in fiscal year 1989-90 for State Construction projects. The Secretary of Transportation may use State Construction

appropriations for emergencies which occur on county roads, e.g., bridge failures, severe snow and ice, slips and slides.

2. Included within the above appropriation is $35,704,500 in fiscal year 1988-89 and $35,854,900 in fiscal year 1989-90 for Toll Road lease rental payments.

3. Included within the above appropriation is $18,335,700 in fiscal year 1988-89 and $18,359,900 in fiscal year 1989-90 for debt service on general obligation highway bonds.

4. Included within the above appropriation is $42,765,100 in fiscal year 1988-89 and $42,761,300 in fiscal year 1989-90 for Resource Recovery Road lease rental payments. It is the intent of the General Assembly that the Secretary of Transportation shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

5. Included within the above appropriation is $35,208,200 in fiscal year 1988-89 and $35,206,500 in fiscal year 1989-90 for Economic Development Road lease rental payments.

6. Included within the above appropriation is $61,299,500 in fiscal year 1988-89 and $62,591,500 in fiscal year 1989-90 for the County Road Aid program.

7. Included within the above appropriation is $74,363,300 in fiscal year 1988-89 and $75,930,700 in fiscal year 1989-90 for the Rural Secondary program.

8. Included within the above appropriation is $25,792,700 in fiscal year 1988-89 and $26,336,300 in fiscal year 1989-90 for the Municipal Aid program.

9. Included within the above appropriation is $900,000 in fiscal year 1988-89 and $900,000 in fiscal year 1989-90 for the Energy Recovery Road Fund.

10. Included in the above appropriation is $190,000 in fiscal year 1988-89 and $190,000 in fiscal year 1989-90 for the Kentucky Transportation Center.

Notwithstanding the provisions of KRS 175.505, it is the intent of the General Assembly that no portion of the revenues to the state Road Fund provided by the adjustments in KRS 138.220(2) excluding the provisions of KRS 177.320 and 177.365 shall accrue to the debt payment acceleration fund during the 1988-90 biennium. Any unexpended balance remaining in the debt payment acceleration fund account at the close of the 1987-88 fiscal year is hereby appropriated.

Notwithstanding the provisions of KRS 56.872, it is the intent of the General Assembly that any net debt service savings, any funds released from a debt service reserve fund or any other funds generated as a result of any refinancing or other mechanism approved by the Kentucky Turnpike Authority, as reported by the Secretary of the Finance and Administration Cabinet in the branch budget recommendation, is hereby appropriated.

It is the intent of the General Assembly that any unexpended balance remaining at the close of the 1987-88 fiscal year in the Snow and Ice Removal Reserve Fund, as established by the 1986 General Assembly, shall be appropriated in fiscal year 1988-89 for the same purpose. The appropriation to this Reserve Fund shall be deposited in an interest bearing account and all interest income shall accrue back to this Reserve Fund.

No funds shall be expended from the Snow and Ice Removal Reserve Fund until the Transportation Cabinet's cumulative snow and ice removal expenditures, in any fiscal year of the 1988-90 biennium exceed $6,700,000. In the event that the provision is implemented, the Transportation Cabinet shall certify to the Appropriations and Revenue Committee and the Transportation Committee the documented need and usage of this fund.

Any unexpended balance remaining in the Snow and Ice Removal Reserve Fund at the close of the 1988-89 fiscal year shall not lapse, but shall continue into fiscal year 1989-90.

TOTAL - EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1988-89	$ 698,286,100
1989-90	$ 703,540,000

Included in the above amounts are $5,263,700 in fiscal year 1988-89 and $2,441,100 in fiscal year 1989-90 for capital projects directly funded in Part V of this Act.

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding the provisions of KRS 48.140, there is hereby established a plan for the expenditure of Road Fund tax receipts in excess of the tax receipts estimate for the Road Fund as determined by subsection (3) of KRS 48.120. This Road Fund surplus expenditure plan provides for additional moneys for non-recurring expenditures for which an appropriation was not made in this Appropriation Act, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded.

Whereas Road Fund tax receipts are appropriated based on detailed estimates provided by the Revenue Cabinet in the amount of $633,970,000 in fiscal year 1987-88 and by the Finance and Administration Cabinet in the amount of $673,395,700 in fiscal year 1988-89, therefore the General Assembly does hereby authorize the expenditure of excess receipts up to a maximum of $35,000,000 in fiscal year 1988-89 and $35,000,000 in fiscal year 1989-90 as provided in this Road Fund surplus expenditure plan.

The Secretary of Finance and Administration Cabinet shall determine, after the close of fiscal year 1987-88 and fiscal year 1988-89 based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess Road Fund tax receipts available for expenditure through the Road Fund surplus expenditure plan. The amount of excess receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Governor in a timely manner.

The Governor is hereby authorized to expend these excess tax receipts, up to the amount reported by the Secretary of the Finance and Administration Cabinet, for the purposes stated herein, subject to the following restrictions. First, the available receipts shall be used for non-recurring State Construction projects or resurfacing of the state highway system, or for equipment or other capital outlay purchases; then, to restore requested fund levels disallowed by the 1988 General Assembly; and then, to match discretionary Federal Aid Highway funds.

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is hereby established a plan for the reduction of the Road Fund budget, by budget unit, in the event that projected or actual tax receipts accruing to the Road Fund are at least two and one-half percent (2.5%) but not more than five percent (5%) less than the revenue estimate for this fund as determined under subsection (3) of KRS 48.120.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance and support of the Justice Cabinet and the Transportation Cabinet based on detailed estimates provided by the Finance and Administration Cabinet in the amount of $673,395,700 in fiscal year 1988-89 and $693,671,400 in fiscal year 1989-90, therefore, in the event of an actual or projected deficit in tax receipts accruing to the Road Fund of less than $16,834,900 in fiscal year 1988-89 or $17,341,800 in fiscal year 1989-90, the Governor shall implement budget reductions on the Governor's own initiative, as prescribed in subsection (5) of KRS 48.130.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance, and support of the Justice Cabinet and the Transportation Cabinet based on detailed estimates provided by the Finance and Administration Cabinet in the amount of $673,395,700 in fiscal year 1988-89 and $693,671,400 in fiscal year 1989-90, therefore, in the event that projected or actual tax receipts accruing to the Road Fund are at least $16,834,900 but not more than $33,669,800 less than the revenue estimate in fiscal year 1988-89, or at least

$17,341,800 but not more than $34,683,600 less than the revenue estimate in fiscal year 1989-90, the General Assembly does hereby authorize the implementation of this Road Fund budget reduction plan.

In the event funds that have accrued to the surplus account of the Road Fund are sufficient to meet the deficit, transfers from this surplus account shall be made, as appropriate, and the budget reduction provisions embodied in this Appropriation Act shall not be implemented.

In the event funds that have accrued to the surplus account of the Road Fund are not sufficient to meet the deficit, this Road Fund budget reduction plan shall be implemented and allotments to the budget units shall be reduced to the extent required to meet the deficit. The Governor shall determine the priority of reductions in order to protect the highest possible level of service, with the following restrictions. Allocations required by statutory Road Fund revenue sharing programs shall be adjusted pursuant to the applicable statutes. Appropriations for debt service on general obligation bonds and appropriations for lease rental payments to the Turnpike Authority of Kentucky shall be excluded from the reduction plan.

In the event that the provisions of this Road Fund budget reduction plan are implemented, the reporting procedures established in KRS 48.600 shall be observed.

In the event that Road Fund tax receipts increase over the estimated deficit, then services shall be restor88RSHJ the reverse order of the reduced services.

PART V

CAPITAL CONSTRUCTION FUND

Monies in the Capital Construction Fund are appropriated for the following capital projects. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1988-90 biennium:

A. COMMERCE

	1988-89	1989-90
1. Office of the Secretary		
a. Economic Development Projects		
Bond Fund	10,000,000	30,000,000
b. Covington Riverside Parking Structure		
Bond Fund	6,500,000	
c. Owensboro/Green River Steel		
Bond Fund	3,000,000	
d. Owensboro/Daviess County Downtown Development Project		
Bond Fund	4,500,000	
e. Bluegrass Airport		
Bond Fund	2,000,000	
2. Kentucky Development Finance Authority		

Bond Fund	5,000,000	5,000,000

B. CORRECTIONS

1. Morgan County Facility -		
Expansion of Medium Security Institution		
Bond Fund	27,979,200	
2. Kentucky State Reformatory -		
Construction of Dormitory 13/Demolition of Dormitory 3		
Bond Fund		3,475,600
3. Kentucky Correctional Institution for Women -		
Facility Upgrade		
Bond Fund (1987-88 $2,362,100)		
4. Conversion of Existing Facility to a Medium Security Correctional Facility		
Bond Fund	8,130,000	
5. Roederer Farm Center -		
Conversion of Existing Facility to a Medium Security Facility		
Bond Fund	953,600	
6. Roederer Farm Center -		
New Minimum Security Unit		
Bond Fund	4,275,200	
7. Miscellaneous Maintenance Projects		
Investment Income	500,000	500,000
8. Kentucky State Reformatory -		
Construction of Dormitory 12		
9. Kentucky State Penitentiary -		
Sewage and Water Plant Upgrade		
10. Blackburn Correctional Complex -		

Electrical System Upgrade

11. Northpoint Training Center -

Electrical Distribution System Replacement

C. EDUCATION AND HUMANITIES

1. Department of Education

a. Kentucky School for the Blind - New Dormitory		
Bond Funds	2,915,100	
b. Kentucky School for the Deaf - Maintenance/Storage Facility		
Bond Funds	501,700	
c. Bowling Green Truck Driving Program		
Agency Fund	300,000	
d. Hazard State Vocational/Technical School - Continuous Miner		
Agency Fund	150,000	
e. Hazard State Vocational/Technical School - Tractor		
Agency Fund		200,000
f. Hazard State Vocational/Technical School - End Loader		
Agency Fund		175,000
g. Bowling Green Advanced Technology Center		
Bond Funds	2,313,700	
h. Ashland State Vocational/Technical School and Technology Expansion		
Bond Funds	1,632,100	
i. Mayo State Vocational/Technical School		
Technology Expansion and Property Acquisition		
Bond Funds	2,597,300	
j. Jefferson State Vocational/Technical School and Advanced Technology Center		

Bond Funds	2,480,900	
k. Northern Campbell State Vocational/Technical School and Advanced Technology Center		
Bond Funds	1,662,100	
l. Somerset State Vocational/Technical School		
Technology Expansion		
Bond Funds	1,647,900	
m. Hazard State Vocational/Technical School Expansion		
Bond Funds	2,718,600	
n. Madisonville Health Annex Expansion		
Bond Funds	3,078,200	

D. ENERGY

1. Administration Building Transformer Replacement		
General Fund	130,000	
2. Micronizer/Pulverizer		
General Fund		65,000
3. Advanced Coal Combuster		
General Fund		140,000
4. Laser Doppler Velocimeter		
General Fund		90,000
5. Instrumentation and Control System		
Federal Fund		70,000
6. Pressurized TGA/DSC		
Federal Fund		125,000
7. Ventilation System		
General Fund		

E. FINANCE AND ADMINISTRATION

1. Department for Facilities Management

a. Emergency Repair, Maintenance and Replacement Fund		
Investment Income	2,650,000	4,050,000
b. Capital Construction and Equipment Purchase Contingency Fund		
Investment Income	1,150,000	1,150,000
c. Centralized Laboratory Building - Final Design and Site Acquisition		
Bond Fund		2,500,000
d. Capitol and Capitol Annex Mechanical Renovation		
Bond Fund		3,000,000
e. Kentucky Community Public Works Program		
Bond Fund		25,000,000
f. Miscellaneous Projects		
Investment Income	500,000	500,000

2. Department of Information Systems

For the major equipment purchases displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

a. Processor Upgrade		
Agency Fund	2,000,000	
b. Processor Upgrade		
Agency Fund	6,000,000	
c. 9 Disk Drives @ $125,000 each		
Agency Fund	625,000	500,000
d. 2 Disk Storage/Control Devices @ $150,000 each		
Agency Fund	300,000	
e. 9 Disk Drives @ $75,000 each		
Agency Fund	450,000	225,000
f. 2 Cache Disk Controllers @ $325,000 each		

Agency Fund	650,000	
g. Telecommunication Controller		
Agency Fund	225,000	
h. Processor Replacement		
Agency Fund		7,750,000
i. 2 Magnetic Tape Controllers @ $96,000 each		
Agency Fund		192,000
j. 8 Magnetic Tape Drives @ $56,000 each		
Agency Fund		448,000
k. 2 Cache Disk Controller Upgrades @ $120,000 each		
Agency Fund	240,000	
l. Laser Printer Upgrade		
Agency Fund	100,000	
m. Microfiche Processor		
Agency Fund	150,000	

F. GOVERNMENT OPERATIONS

1. Department of Agriculture		
a. Infra-red Spectrometer Mobil Unit		
General Fund	160,000	80,000
2. Department of Military Affairs		
a. Major Maintenance and Repairs		
Investment Income	750,000	750,000
Federal Fund	882,000	318,600
Total	1,632,000	1,068,600
b. Helicopter Repair/Replacement Components		
Investment Income	350,000	50,000
c. Communications System		

General Fund	446,700	
Federal Fund	498,000	
Total	944,700	
d. Army Aviation Support		
Facility Addition		
General Fund	1,630,200	
Federal Fund	*12,357,400*	
Total	13,987,600	
3. School Facilities Construction Commission		
a. School Facilities Construction Commission		
Bond Fund		80,000,000

G. HIGHER EDUCATION

For the major equipment purchases and capital construction projects displayed in this section as agency fund supported projects, it is anticipated that the funds shall be transferred from the operating fund of each university at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Eastern Kentucky University		
a. PCB Control		
Bond Fund	2,000,000	
b. Roark Building Improvements		
Agency Fund	3,500,000	
c. University Building Improvements		
Agency Fund	365,000	
d. Memorial Science Phase II		
Agency Fund	500,000	
e. Minor Projects		
Agency Fund	3,000,000	3,000,000
f. Energy Management System		
Agency Fund		

g. Pedestrian Overpass	
Agency Fund	
h. Property Acquisition	
Agency Fund	
2. Kentucky State University	
a. Student Center Fire Protection	
Bond Fund	100,000
b. Hathaway Hall Masonry Repairs	
Agency Fund	125,000
c. Carroll Academic Services Building - Concrete Repairs	
Agency Fund	125,000
d. Carroll Academic Services Building Water Damage Repairs	
Agency Fund	100,000
e. Jordon Heating Plant System Renovation	
Agency Fund	200,000
f. Bradford Hall HVAC Renovation	
Agency Fund	1,596,000
g. Roads/Walkways/Landscaping	
Agency Fund (1987-88 — 400,000)	
h. Library Furnishings	
Agency Fund (1987-88 — 500,000)	
i. Cooperative Extension Program Facility	
Federal Funds	2,485,000
3. Morehead State University	
a. Utility and Electrical Distribution System Renovation, Phase I	
Bond Fund	4,989,000
b. Fire Safety Projects	

Bond Fund	192,000	
c. Asbestos Abatement		
Bond Fund	486,000	
d. Roof Repairs/Replacement		
Agency Fund	464,000	464,000
e. Button Auditorium Exterior Repair		
Agency Fund	270,000	
f. Elevator Repairs		
Agency Fund	138,000	
g. HVAC Repairs/Replacement		
Agency Fund	1,535,000	1,535,000
h. Handicapped Accessibility		
Agency Fund	285,000	285,000
i. Fields Hall Renovation		
Bond Fund (debt service supported by agency funds)	3,080,000	
j. Thompson Hall Renovation		
Bond Fund (debt service supported by agency funds)	3,080,000	
k. Parking Garage		
Bond Fund (debt service supported by agency funds)		5,000,000
l. Warehouse Facility Phase I and II		
Agency Fund	500,000	200,000
m. Mignon Screen Replacement		
Agency Fund	500,000	
n. Wetherby Gymnasium Renovation		
Agency Fund		300,000

4. Murray State University

a. Asbestos/PCB Removal		
Bond Fund	1,660,000	
b. Roof Repairs/Replacement		
Agency Fund	741,000	
c. Steam/Condensate Lines Replacement		
Agency Fund	500,000	
d. Lovett Auditorium Improvements		
Agency Fund	3,700,000	
e. Fine Arts Building Renovation		
Agency Fund		2,000,000
f. Art Laboratory		
Agency Fund	400,000	
g. Carr Health Renovation		
Agency Fund	500,000	
h. Pedestrian Walkway		
Agency Fund		300,000
i. Miscellaneous Housing Projects		
Agency Fund	484,000	518,000
j. BSA Museum Renovation, Phase III		
Agency Fund	3,700,000	
5. Northern Kentucky University		
a. Science Building Roof Replacement		
Agency Fund	144,000	
b. University Center, Water Drainage		
Agency Fund	1,386,000	
c. Campus Entrance Improvement Project		
Agency Fund	90,000	1,140,000

d. Property Acquisition		
Agency Fund	661,000	
e. Baseball Field Completion		
Agency Fund	35,000	357,000
f. Interfaith Center		
Agency Fund	75,000	875,000
g. Parking Structure		
Bond Fund (debt service supported by agency funds)	250,000	3,700,000
h. Communications Network		
Agency Fund		
6. University of Kentucky - Main Campus		
a. Asbestos/PCB Removal		
Bond Fund	200,000	
b. Renovate Fume Hoods -Agricultural Science North		
Bond Fund	259,000	
c. Renovate Fume Hoods - Research #3 and Medical Center		
Bond Fund	1,720,000	
d. Cooling Plant #1 Quadrant and Four Chillers		
Agency Fund	4,250,000	2,000,000
e. Cooling Plant #2 Quadrant and Two Chillers		
Agency Fund	4,250,000	1,000,000
f. Electric Substation #2 Expansion		
Agency Fund	250,000	
g. Central Heating Plant #2 - Boiler Controls		
Agency Fund	324,000	
h. Cooling Plant #3 - Chiller Replacement		
Agency Fund	250,000	900,000

i. Chilled Water Lines		
Agency Fund	500,000	2,250,000
j. Resurfacing of Parking Lots - University Drive		
Agency Fund		280,000
k. Chilled Water Lines Connecting Cooling Plant #1 and Cooling Plant #2		
Agency Fund	400,000	
l. Steam Lines Expansion, Rose Street		
Agency Fund	500,000	
m. Dental Clinic Renovation Phase I		
Agency Fund	596,000	
n. Renovate 4th Floor Clinic to Offices		
Agency Fund	350,000	
o. Lab Improvements, Phases I and II		
Agency Fund	700,000	
p. Geology Space - Breckinridge Hall, Phase I and II		
Agency Fund	900,000	600,000
q. Pharmacy Incubation Facility, Phase I		
Agency Fund	4,000,000	
r. Agriculture Plant Science Building		
Agency Fund	8,701,000	
s. Magnetic Resonance Imaging and Spectroscopy Center (MRISC) II and III		
Agency Fund	6,000,000	
t. Office Space, Phase I and II		
Agency Fund	1,750,000	875,000
u. Morgue Renovation		
Agency Fund	300,000	

v. Renovate Electron Microscopy Room		
Agency Fund	200,000	
w. Student Center Roof Replacement		
Agency Fund	440,000	
x. Cooperstown Fire Alarm System		
Agency Fund	300,000	
y. Cooperstown Building "A" Repair		
Agency Fund	250,000	
z. Renovate Rooms 001, 004 Pharmacy		
Agency Fund	200,000	
aa. Donovan Hall Air Conditioning		
Agency Fund	1,279,000	
bb. Athletic Administrative Offices		
Agency Fund	1,353,000	
cc. Renovate Department Offices Phase I and II		
Agency Fund	400,000	400,000
dd. Indoor Athletics Practice Facility		
Agency Fund	2,585,000	
ee. Horticulture Field Lab		
Agency Fund	400,000	
ff. Placement Services Building		
Agency Fund	2,000,000	
gg. Veterinary Science Clinical Facility		
Agency Fund	6,915,000	
hh. Pesticide Storage/Preparation Building - Fayette County		
Agency Fund		340,000
ii. Pesticide Storage/Preparation Building - Caldwell County		

Agency Fund	340,000
jj. Patterson Tower Elevators	
Agency Fund	311,000
kk. Funkhouser Window Replacement	
Agency Fund	336,000
ll. Classroom Building Roof Replacement	
Agency Fund	292,000
mm. Taylor Education Building Roof Replacement	
Agency Fund	301,000
nn. Reynolds #1 Roof Replacement	
Agency Fund	329,000
oo. Memorial Coliseum Roof Replacement	
Agency Fund	302,000
pp. Chemistry/Physics Roof Replacement	
Agency Fund	361,000
qq. Renovate Dental Technique Lab	
Agency Fund	306,000
rr. Renovate Agriculture Engineering Building	
Agency Fund	650,000
ss. Plant Breeding/Genetics Building	
Agency Fund	750,000
tt. Biotechnology Center (Slone Building)	
Agency Fund	2,500,000
uu. Research Lab Space Recovery	
Agency Fund	1,200,000
vv. Renovate Labs, Phase III and IV	
Agency Fund	700,000

ww. Multi-purpose Arena Building		
Agency Fund		1,000,000
xx. Stadium Expansion and Parking Deck		
Agency Fund		16,000,000
yy. Agricultural Plant Growth Chamber		
Agency Fund	800,000	
zz. Environmentally Controlled Greenhouse		
Agency Fund	800,000	
aaa. Agricultural Social Science Building		
Agency Fund	4,000,000	
bbb. Business and Economics Building Addition/ Renovation		
Bond Fund	8,075,000*	

*Project authorization in first year but bond sale not allowed until after January 1, 1989 due to timing of debt service payment and the related General Fund appropriation.

7. University of Kentucky - Hospital

a. Markey Cancer Center 3rd Floor Completion		
Agency Fund	3,500,000	
b. Hospital Stores Upgrade and Road Improvement		
Agency Fund	500,000	
c. Third Floor Renovation and Expansion		
Agency Fund	700,000	
d. Diagnosis Services Upgrade I and II		
Agency Fund	400,000	400,000
e. Labor and Delivery Upgrade		
Agency Fund	300,000	
f. Animal Pathology Barn Renovation		
Agency Fund	500,000	
g. MRI Facility Clinical Component		

(MRISC Phase I)		
Agency Fund	1,500,000	
h. Voice/Data Wireway System		
Agency Fund	200,000	
i. Incinerator Replacement		
Agency Fund	300,000	
j. Ambulatory Surgery Upgrade		
Agency Fund		750,000
k. Nursing Unit Modifications		
Agency Fund		500,000
l. Ground Floor Support Services Upgrade		
Agency Fund		300,000
m. Upgrade and Extension of Pneumatic Tube System		
Agency Fund		750,000
n. Land Acquisition for Business Services Facility		
Agency Fund		2,000,000
o. Fire Safety/Suppression System, Phase I		
Agency Fund		300,000
p. Medical Research Building - Planning		
Agency Fund	1,000,000	
8. University of Kentucky - Community College System		
a. Elizabethtown Community College - Administration and Science Building		
Agency Fund	250,000	
b. Lexington Community College - Oswald Building Renovation		
Agency Fund	250,000	
c. Prestonsburg Community College - Johnson Building Renovation		

Agency Fund		250,000
d. Hazard Community College - Academic Building Renovation		
Agency Fund		300,000
e. Southeast Community College - Building Renovation		
Agency Fund		350,000
f. Elizabethtown Community College - Administration Building Roof Replacement		
Agency Fund		217,000
g. Jefferson Community College - DT - Broadway Building Renovation Phase II		
Agency Fund		
h. Ashland Community College - Academic Learning Resource Center		
Bond Fund	,300,000*	

*Project authorization in first year but bond sale not allowed until after January 1, 1989 due to timing of debt service payment and the related General Fund appropriation.

9. University of Lousiville

a. Residence Hall		
Bond Fund (debt service supported by agency funds)	6,000,000	
b. Land Acquisition		
Agency Fund		5,000,000
c. University Club		
Agency Fund	4,000,000	
d. Renovation for Printing Services		
Agency Fund	400,000	
e. Renovation of "C" Building		
Agency Fund	2,154,000	
f. Kentucky Lions Eye Research Institute		

Agency Fund	6,740,000
10. Western Kentucky University	
a. Life/Safety Improvements	
Bond Fund	800,000
b. Asbestos Abatement	
Bond Fund	579,000
c. Hazardous Materials Storage	
Bond Fund	197,000
d. Coal Boilers #1 and #2 Replacement	
Agency Fund	1,272,000
e. HVAC System Improvements	
Agency Fund	175,000
f. Treat Exterior Surfaces	
Agency Fund	485,000
g. Snell Hall Improvements	
Agency Fund	
h. Alteration of Dairy Barn	
Agency Fund	210,000
i. Residence Hall Improvements	
Bond Fund (debt service supported by agency funds)	5,000,000
j. Resident Hall	
Bond Fund (debt service supported by agency funds)	6,000,000
k. Student Housing Development, 15th Street	
Bond Fund (debt service supported by agency funds)	5,886,000
l. Instructional Television Station	
Federal Funds	275,000
m. Air Conditioning Units Replacement	

Bond Fund

n. Academic Athletic Building No. 2 Structural Repairs

Bond Fund

o. Air Conditioning Units Replacement

Bond Fund

p. Ivan Wilson Building Humidity Control

Bond Fund

q. Helms Cravens Building Humidity Control

Bond Fund

r. Underground Steam and Electrical Distribution Lines Replacement

Bond Fund

EQUIPMENT LISTING

11. Eastern Kentucky University

Funding for the following Eastern Kentucky University equipment purchases will be from Agency Funds.

a. Equipment under $50,000	900,000	900,000
b. CAD Drafting System		
c. PRINTING PRESS	63,000	
d. CNC TURNING CENTER		
e. TRANSMITTER - WEKU FM	120,000	
f. DIESEL BUSES	15,000	
g. ACADEMIC COMPUTER	480,000	
h. X-RAY FLORESCENT SYSTEM	90,000	
i. BUSINESS COMPUTER	95,000	
j. TECHNOVATE PNEUMATIC UNIT		
k. LOCAL AREA NETWORK	80,000	80,000
l. PBX SWITCH	500,000	500,000

12. Morehead State University

Funding for the following Morehead State University equipment purchases will be from Agency Funds.

a. CNC LATHE			
b. CAD/CAM UPGRADE FOR PRIME SOFTWARE		81,500	
c. GAS CHROMATOGRAPH/MASS SPECTROMETER		74,500	
d. PLANETARIUM PROJECTOR & 10 MTR DOME		195,000	
e. COMPUTER LAB		68,000	
f. SCANNING ELECTRON MICROSCOPE			80,000
g. MICROSCOPES		67,200	
h. STATE OF THE ART 386 MICROCOMPUTERS		221,500	
i. ELECTRONIC ORGAN		100,000	
j. NINE FOOT CONCERT GRAND PIANO		30,000	30,000
k. ELECTRONIC LAB/RECORDING STUDIO		60,000	
l. LIBRARY AUTOMATION SYSTEM			
m. WELDING INDUSTRIAL ROBOT			74,000
n. ACADEMIC/ADMINIS. COMPUTING SYSTEM		625,000	
o. COMMUNICATIONS/NETWORKING SYSTEM		381,000	
p. MISCELLANEOUS COMPUTING EQUIPMENT		53,000	
q. ACADEMIC SOFTWARE		68,500	
r. TELEPHONE SWITCHING SYSTEM/SUPPORT		487,200	
s. BULLDOZER		10,000	

13. Murray State University

Funding for the following Murray State University equipment purchases will be from Agency Funds.

a. UPGRADE IBM 4341 COMPUTER	650,000	650,000	
b. SPECTROMETER		60,000	

c. UPGRADE CONTROL IMAGE PROCESSOR	75,000	
d. NUMERICAL CONTROL INJECTION MOLDING	90,000	
e. COMPUTER AIDED DESIGN LAB	527,600	
f. FLEXIBLE MANUFACTURING SYSTEM	485,000	
g. NUMERICAL CONTROL ROUTER SYSTEM	55,000	
h. MICRO COMPUTER LAB		165,000
i. ELECTRIC SERVICE TRUCK WITH BOOM		60,000
j. INTEGRATED ONLINE LIBRARY SYSTEM		250,000
k. GAS CHROMATOGRAPH/MASS SPECTROMETER		100,000
l. HIGH PRESSURE LIQUID CHROMATOGRAPH		50,000
m. ARTIFACT STORAGE/DISPLAY SYSTEM		252,000

14. Northern Kentucky University

Funding for the following Northern Kentucky University equipment purchases will be from Agency Funds.

a. GAS CHROMATOGRAPH/MASS SPECTROMETER	92,000	
b. MAINFRAME COMPUTER	181,900	181,900
c. XEROX 9900 VR (LEASE/PURCHASE)	31,300	31,300
d. INTERLINK SYSTEM	130,000	
e. MINICOMPUTER FRONT END PROCESSOR	155,000	
f. LIBRARY AUTOMATION PROJECT	115,000	115,000
g. MINICOMPUTER UPGRADE	145,000	145,000
h. TOUCH TONE DATA ENTRY RESPONSE SYSTEM	5,300	
i. NUCLEAR MAGNETIC RESONANCE SPECTROMETER		142,000
j. OPTICAL SCANNER	85,000	
k. ENERGY MANAGEMENT SYSTEM UPGRADE	140,000	

l. TWO COLOR PRESS	135,000

15. University of Kentucky - Main Campus

Funding for the following University of Kentucky equipment purchases will be from Agency Funds.

— COMPUTER UPGRADE	390,000
— COMPUTER STORAGE EQUIPMENT	750,000
— COMPUTER STORAGE EQUIPMENT	650,000
— DATA COMMUNICATIONS EQUIPMENT	250,000
— SYSTEM NETWORK ARCHITECTURE FACILITY	1,000,000
— IMAGE PROCESSING/DISPLAY SYSTEM	600,000
— MAINFRAME MEMORY AND CHANNEL EXPANSION	1,125,000
— COMPUTER STORAGE SYSTEM TAPES	430,000
— INSTRUCTIONAL SUPPORT SYSTEM	800,000
— VS65 COMPUTER UPGRADE	100,000
— ENERGY MANAGEMENT SYSTEM	419,000
— MOBILE ROBOT PACKAGE	100,000
— FLEXIBLE ASSEMBLY LINE	100,000
— CNC VERTICAL MILL	72,500
— FORAGE TESTING SYSTEM	65,000
— IRRIGATION SYSTEM	100,000
— MATERIAL SYTHESIS EQUIPMENT	410,000
— TRANSFORM INTERFEROMETER	150,000
— BLOOD CHEM/ELECTRO/HEMAT SYSTEM	96,200
— HORIZONTAL CNC MACHINING CENTER	180,000
— GAS CHROMATOGRAPH	80,000
— IMAGE DEVELOPMENT COMPUTER	181,200
— VOICE RESPONSE TELEPHONE REGISTRATION SYSTEM	147,000

— STABLE ISOTOPE MASS SPECTRO SYSTEM	130,000
— SIGNAL PROCESSING SYSTEM	75,000
— COMPUTERIZED SCANNING SYSTEM	65,000
— NETWORK ANALYZER	52,000
— SUPER MINICOMPUTER	300,000
— INDUSTRIAL ROBOTS	100,000
— PC ETHERNET	150,000
— NETWORK COMMUNICATION	285,000
— HARRIS HCX-7 UPGRADE	125,000
— LOCAL AREA NETWORK	50,000
— AT&T 3B20 UPGRADE	100,000
— HIGH TEMPERATURE OPTICAL MICROSCOPE	105,000
— HARRIS HCX-7 UPGRADE	80,000
— HIGH SPEED VIDEO RECORDER W/PERIPHERALS	120,000
— PLOTTER FOR HARRIS HCX-7	50,000
— HORIZONTAL BORING MACHINE	52,500
— LATHE W/48″ SWING	65,000
— BLOOD PROFILE ANALYSIS SYSTEM	60,000
— MOBILE DENTAL CLINIC	162,000
— TRACK TYPE TRACTOR	73,800
— CATALOG REMOTE ACCESS SYSTEM	50,000
— COMPACT SHELVING (3)	150,000
— ARTIFICIAL INTELLIGENCE FILE SAVER	60,000
— MINICOMPUTER	470,000
— LINE TEST EQUIPMENT	55,000
— VS COMPUTER	202,000

— DISTRIBUTED PBX (3)	175,000
— DEV COMPUTER/HARDWARE-ANSER	60,000
— COMPUTER UPGRADE II UPDATE MASTER	240,000
— DATA ACQUISITION/ANALYSIS COMPUTER	70,000
— EDITING/MAILING SYSTEM	60,000
— LOG TRUCK	58,000
— INDUSTRIAL QUALITY ROBOT	50,000
— ROTOR TEST FACILITY	70,000
— EXTEND 2-D LDV TO 3-D LDV	90,000
— VAPOR DEPOSITION SYSTEM	150,000
— GAS CHROMATOGRAPH/MASS SPECTROMETER	61,500
— DOCUMENT IMAGE ARCHIVAL/ RETRIEVAL	177,000
— STUDIO TV CAMERA	65,500
— TELEPHONE 4600E PBX	500,000
— 20 PORT AUDIO BRIDGE	72,500
— VIDEO RECORDER/PLAYER	62,800
— CADAVER STORAGE RACK	140,800
— COMPUTER AIDED DESIGN/COMPUTER EQUIPMENT	156,000
— CRYOLATHE	102,500
— RESEARCH MINICOMPUTER	50,000
— KINETIC COMMUNICATOR SYSTEM	72,400
— MANAGEMENT MINICOMPUTER	365,000
— METABOLIC CART	50,000
— MAGNETIC RESONANCE IMAGER	3,000,000
— ADMINISTRATIVE MINICOMPUTER	206,000

— HIGH PERFORMANCE LIQUID CHROMATOGRAPH	50,000
— SCANNING ELECTRON MICROSCOPE	355,000
— IMAGE ANALYSIS SYSTEM	155,000
— SECONDARY ION MASS SPECTROSCOPY	150,000
— INTEGRATED ANGI, DOPPLER, ECHO	1,100,000
— RESEARCH MINICOMPUTER	51,500
— WALK-IN FREEZER	75,000
— AUTO AFTERLOADER	168,300
— ELECTRORETINOGRAM	98,800
— FIELD EMISSION GUN FOR STEM	200,000
— IMAGING SYSTEM	97,900
— DESKTOP PUBLISHING SYSTEM	139,100
— BASEBALL GRANDSTAND	100,000
— REHABILITATION/FITNESS EQUIPMENT	52,900
— EXERCISE EQUIPMENT	52,900
— TRACK GRANDSTAND	100,000
— CLINICAL PATIENT CARE COMPUTER	448,100
— DATA STORAGE DEVICES	77,300
— DIFFUSION FURNACE	150,000
— JOINT TESTING EQUIPMENT	50,000
— VIDEO MICROSCOPY EQUIPMENT	60,000
— GAS CHROMATOGRAPH	60,000
— MODELING SYSTEM	180,300
— TREATMENT PLANNING SYSTEM	61,800
— BEHAVORIAL ANALYSIS SYSTEM	60,000
— LIGHT MICROSCOPE	55,000
— IMAGE ANALYZER	107,000

— HIGH PERFORMANCE LIQUID CHROMATOGRAPH	58,600	
— HPLC/FPLC	64,000	
— COMPUTER STORAGE EQUIPMENT		750,000
— DATA COMMUNICATIONS EQUIPMENT		250,000
— MAINFRAME MEMORY EXPANSION		250,000
— ENERGY MANAGEMENT SYSTEM		427,000
— MOBILE ROBOT PACKAGE		100,000
— FLEXIBLE ASSEMBLY LINE		100,000
— CONSTRUCTION BOOM LIFT		100,000
— FRONT LOADING GARBAGE TRUCK		105,000
— LOCAL AREA NETWORK		50,000
— UKNET GATEWAY		50,000
— ELECTRON SPIN RESONANCE SPECTROMETER		181,000
— GRAIN COMBINE		72,000
— SMALL ANIMAL CAGE WASHER		75,500
— WELDING WORKSTATION		100,000
— CONTROLLED ATMOSPHERE SINTERING FURNACE		60,000
— AUTOMATED HARDNESS TESTING MACHINE		100,000
— CRYSTAL GROWTH FURNACE		100,000
— HOLOGRAPHIC SYSTEM W/IMAGE ANALYZER		110,000
— DOUBLE MONOCHROMATER		61,000
— DEV COMPUTER/HARDWARE-ANSER		180,000
— LASER PRINTER		80,000
— COMPUTER DISK STORAGE/MEMORY EXPANSION		120,000
— STUDIO TV CAMERA		65,500

— RADIO LABELED CHROMATOGRAPHY SYSTEM	51,000
— NUCLEAR DATA ACQUISITION SYSTEM	80,000
— RESEARCH MINICOMPUTER	242,100
— UNIVERSAL 40 TON TESTING MACHINE	70,000
— LIQUID CHROMATOGRAPH SYSTEM & ACCESS	56,000
— MASS SPECTROMETER	100,000
— VERTICAL CNC MACHINING CENTER	240,000
— POSITION EMISSION TOMO SCANNER	3,000,000
— MASS SPECTROMETER W/TRIPLE QUADRUPLE	970,000
— SPECTROMETER	80,300
— ULTRACENTRIFUGE	134,000

16. University of Kentucky - Hospital

Funding for the following University of Kentucky - Hospital equipment purchases will be from Agency Funds.

a. COMPUTER DISK STORAGE	434,000
b. MATERIALS MANAGEMENT SYSTEM	192,000
c. MAINFRAME CENTRAL PROCESSOR	2,300,000
d. AUTOMATED PAYROLL SYSTEM	220,000
e. INCINERATOR	300,000
f. EMERGENCY VEHICLE	125,000
g. CARDIAC CATHETERIZATION LAB REPLACEMENT	1,320,000
h. RADIATION MEDICINE TREATMENT EQUIPMENT	885,000
i. MOBILE FLUOROSCOPIC EQUIPMENT	135,000
j. MULTIPHASIC CHEMICAL ANALYZER	198,000
k. AUTOMATED CHEMISTRY ANALYZER	121,000
l. RADIOGRAPHIC FLUORSCOPIC UNIT	440,000

m. RADIOLOGICAL IMAGING SYSTEM	550,000	
n. RADIOGRAPHIC IMAGING SYSTEM	209,000	
o. ANGIOGRAPHIC EQUIPMENT	99,000	
p. SURGERY LASER	140,000	
q. HEART SURGERY EQUIPMENT	250,000	
r. NEUROSURGERY DIAGNOSTIC EQUIPMENT	140,000	
s. PATIENT CARE SYSTEM	100,000	
t. ECHOCARDIOGRAPHIC EQUIPMENT	150,000	
u. ENDOSCOPE SYSTEM	60,000	
v. NUCLEAR MEDICINE CAMERA	280,000	
w. OPHTHALMIC EQUIPMENT	90,000	
x. NEUROLOGIC DIAGNOSTIC EQUIPMENT	80,000	
y. ULTRASOUND SYSTEM	185,000	
z. AUTOMATED CYTOGENETICS ANALYZER	80,000	
aa. SPECIAL CHEMISTRY AUTOMATED ANALYZER	70,000	
bb. BLOOD PROCESSOR	55,000	
cc. MICROBIOLOGY AUTOMATED PROCESSOR	85,000	
dd. HYPERBARIC CHAMBER	80,000	
ee. FINANCIAL PLANNING SYSTEM	150,000	
ff. PRINTER	65,000	
gg. WORD PROCESSING EQUIPMENT	100,000	
hh. MAGNETIC RESONANCE IMAGING EQUIPMENT	2,600,000	
ii. DISK STORAGE UNITS		300,000
jj. RADIOLOGY INFORMATION SYSTEM		100,000
kk. CLINICAL COMPUTING EQUIPMENT		200,000
ll. EMERGENCY VEHICLE		120,000

mm. SURGICAL LASER	150,000
nn. SURGICAL DIAGNOSTIC EQUIPMENT	150,000
oo. OPHTHALMOLOGY MICROSCOPE	70,000
pp. RADIOGRAPHIC FLUOROSCOPIC UNIT	305,000
qq. RADIOGRAPHIC UNIT	200,000
rr. CHEST IMAGING UNIT	195,000
ss. MAMMOGRAPHIC SYSTEM	105,000
tt. IMAGING UNIT	155,000
uu. COMPUTERIZED TOMOGRAPHY SCANNER	1,950,000
vv. TOXICOLOGY PROCESSOR	60,000
ww. AUTOMATED LABORATORY ANALYZER	330,000
xx. HEMATOLOGY AUTOMATED PROCESSOR	187,000
yy. ULTRASOUND SYSTEM	135,000
zz. VASCULAR DIAGNOSTIC EQUIPMENT	200,000
aaa. NUCLEAR MEDICINE CAMERA	250,000
bbb. TREATMENT PLANNING COMPUTER	150,000
ccc. NEUROLOGY SCANNING SYSTEM	70,000
ddd. MAINFRAME UPGRADE	400,000
eee. RADIATION MEDICINE UNIT	1,000,000
fff. HELICOPTER	3,000,000

17. University of Kentucky - Community College System

Funding for the following University of Kentucky Community College System will be from Agency Funds.

a. Jefferson DT: ENERGY MANAGEMENT SYSTEM	150,000
b. Ashland: ENERGY MANAGEMENT SYSTEM	85,000
c. Ashland: DATA/COMMUNICATION SYSTEM	95,000

d. Paducah: ENERGY MANAGEMENT SYSTEM	85,000	
e. LIBRARY MINICOMPUTER	300,000	
f. Madisonville: ENERGY MANAGEMENT SYSTEM		100,000
g. Jefferson: ENERGY MANAGEMENT SYSTEM		75,000
h. Prestonsburg: ENERGY MANAGEMENT SYSTEM		100,000
i. Somerset: DATA/COMMUNICATION SYSTEM		85,000
j. IBM 4331 UPGRADE		150,000
k. LIBRARY MINICOMPUTER		265,000

18. University of Louisville

Funding for the following University of Louisville equipment purchases will be from Agency Funds.

a. CENTRAL PROCESSING UNIT	600,000	600,000
b. TELECOMMUNICATIONS SYSTEM		500,000
c. TYPESETTING EQUIPMENT	50,000	
d. TRANSMISSION ELECTRON MICROSCOPE	216,300	
e. CHANNEL UPGRADE		125,000
f. DATA COMMUNICATIONS NETWORK EXPANSION		350,000
g. LASER PRINTERS		100,000
h. EMERGENCY CALL BOX SYSTEM	100,000	
i. CLOSED-CIRCUIT TELEVISION MONITOR	100,000	
j. VOICE RESPONSE SYSTEM		153,500
k. HIGH ENERGY LINEAR ACCELERATOR	1,800,000	
l. FLOW CYTOMETRY	153,200	
m. NUCLEAR MAGNETIC RESONANCE SPECTROMETER	1,360,000	
n. METABOLIC MEASUREMENT CART	65,000	

o. REMOTE AFTERLOADER FOR BRACHYTHERAPY	240,000	
p. GAMMA & BETA RADIOACTIVITY COUNTERS	65,000	
q. PEPTIDE SYNTHESIZER	85,900	
r. FLUORESCENT MICROSCOPE	55,000	
s. NUCLEAR COUNTING SYSTEM	50,600	
t. INTERFACED CAPILLARY COLUMN GAS CHROMATOGRAPH/FOURIER TRANSFORM INFRARED SPECTROPHOTOMETER/DATA SYSTEM	85,500	
u. AMINO ACID ANALYZER	101,000	
v. PROTEIN SEQUENCER	95,900	
w. PAIN MANAGEMENT FACILITY	94,100	
x. PLOTTER SUBSYSTEM		75,000
y. TAPE SUBSYSTEMS		400,000
z. NUCLEAR MAGNETIC RESONANCE SPECTROMETER		129,000
aa. SCIENTIFIC PROCESSOR UPGRADE		250,000
bb. BASIC RADIOGRAPHIC/FLOROSCOPIC UNIT		260,000
cc. DYNAMIC MECHANICAL ANALYZER		60,700
dd. MODULATION GENERATOR		55,000
ee. MICROVAX II COMPUTER SYSTEMS	61,600	61,600
ff. MAGNETIC CIRCULAR DICHORISM SPECTROMETER		77,300
gg. SYNTHESIZER	60,000	
hh. PIPE ORGAN		75,000
ii. 47 PASSENGER HIGHWAY BUS		200,000
jj. TRASH COMPACTOR TRUCK		75,000

The following academic equipment requested from state supported bonds are authorized from Agency Funds to the extent available.

a. CORONARY ANGIOGRAPHY SYSTEM	165,000	

b. ELECTROPHYSIOLOGY SYSTEM	151,000
c. IMAGE PROCESSING UNIT	209,500
d. MATERIAL TEST SYSTEM UNIVERSAL TESTING MACHINE	252,000
e. ANIMAL IRRADIATOR	140,000
f. AUTOMATIC RECORDING SPECTROPOLARIMETER	67,500
g. LASER FLUORIMETRIC SYSTEM	85,700
h. GRAPHICS MODELING SYSTEM	80,900
i. ELECTRONIC ANALYZER/DESIGN SYSTEM	89,800
j. ORTHO CYTOFLUORAGRAPH	216,500
k. CAE/FACTORY AUTOMATION FACILITY	535,000
l. COMPUTER DISK DRIVE	50,000
m. ARRAY PROCESSOR SYSTEM	153,900
n. NUCLEAR MAGNETIC RESONANCE SPECTROMETER	568,800
o. DISK SUBSYSTEMS	300,000
p. CENTRAL PROCESSING UNIT/UPGRADE	2,500,000
q. MEMORY UPGRADE	100,000
r. TRANSMISSION ELECTRON MICROSCOPE	331,300
s. SCANNING ELECTRON MICROSCOPE	100,000
t. TISSUE CULTURE LABORATORY	140,700
u. ANESTHESIA/CELLULAR NEUROSCIENCES LAB	62,000
v. GAS CHROMATOGRAPH/MASS SPECTROMETER SYSTEM	86,700
w. HYPERTHERMIA EQUIPMENT	240,000
x. FLOW CYTOMETER	85,000
y. ULTRA HIGH VACUUM CHAMBER/MASS SPECTROMETER	80,000

z. MATERIALS TESTING SYSTEM	85,000
aa. MICROCOMPUTER LOCAL AREA NETWORK	100,000
bb. TRANSMISSION ELECTRON MICROSCOPE	111,000
cc. CONDENSED MATTER ANALYTICAL FACILITY	53,000
dd. CHANNEL UPGRADE	125,000
ee. DATA COMMUNICATIONS NETWORK EXPANSION	350,000
ff. SCIENTIFIC PROCESSOR	500,000
gg. LASER PRINTER	350,000
hh. THERMOGRAPHIC SYSTEM (INFRARED CAMERA/IMAGE PROCESSING SYSTEM)	80,000
ii. HIGH PERFORMANCE LIQUID CHROMATOGRAPHY SYSTEM	51,200
jj. LIQUID CHROMATOGRAPHY SYSTEM	75,000
kk. LASER OPTICS LABORATORY	556,000
ll. ARGON/DYE LASER	83,000
mm. COMPUTER NUMERICALLY CONTROLLED GRINDING MACHINE	178,000
nn. COMPUTER SYSTEM FOR INSTRUCTIONAL SUPPORT	160,000
oo. ROBOT	52,000
pp. MICROCOMPUTER DEVELOPMENT SYSTEM	62,000
qq. TORSIONAL TESTING MACHINE	60,000
rr. PLOTTER SUBSYSTEM	75,000
ss. TAPE SUBSYSTEMS	400,000
tt. ULTRACENTRIFUGE	56,500
uu. RADIONUCLIDE DETECTION SYSTEM	60,100
vv. LIQUID CHROMATOGRAPH/MASS SPECTROMETER	98,000

ww. ABSORPTION/PACKED BED HYDRAULICS EXPERIMENT	70,000
xx. MICROFICHE EQUIPMENT	150,000
yy. OPTICAL CHARACTER SCANNER	75,000
zz. VECTOR FACILITY	500,000
aaa. UNINTERRUPTABLE POWER SUPPLY	150,000
bbb. GRAPHICS COMPUTER	80,000
ccc. TELEVISION EDITING SYSTEM	54,000
ddd. STUDIO TELEVISION CAMERAS	309,300
eee. INSTRUCTIONAL TELEVISION FIXED SERVICE TRANSMITTERS	106,700
fff. CABLE TELEVISION DISTRIBUTION SWITCH	99,600
ggg. DISK SUBSYSTEMS	300,000
hhh. MEMORY UPGRADE	100,000

19. Western Kentucky University

Funding for the following Western Kentucky University equipment purchases will be from Agency Funds, except as noted.

a. TELEVISION CAMERAS	110,000
b. CLUSTER CONTROLLER	54,600
c. CENTRAL PROCESSOR, CONTROLLER/DD	469,000
d. UPGRADE VAX 8650	400,000
e. CENTRAL PROCESSOR ACADEMIC	721,000
f. DISK DRIVES	89,000
g. TAPE CONTROLLER	51,500
h. ELECTRON MICROSCOPE	70,000
i. GARBAGE TRUCK	60,000
j. TELEPHONE COMMUNICATIONS SWITCHING	1,200,000
k. MAGNETIC RESONANCE	

Agency Fund	70,000
Federal Fund	70,000
TOTAL	140,000
l. PLASMA UNIT	
Agency Fund	35,000
Federal Fund	35,000
TOTAL	70,000
m. MICROSCOPE PHOTOMETER	
Agency Fund	60,000
Federal Fund	60,000
TOTAL	120,000
n. NUMERIC CONTROL UNIT	
Agency Fund	25,000
Federal Fund	25,000
TOTAL	50,000

H. CABINET FOR HUMAN RESOURCES

1. Department for Mental Health/Mental Retardation		
a. Miscellaneous Projects		
Investment Income	400,000	400,000
b. Hazelwood Facility		
General Fund	1,250,000	
2. Department for Social Services		
a. Miscellaneous Projects		
Investment Income	300,000	300,000
3. Administration and Program Support		
a. Miscellenaous Projects		

Investment Income		400,000	300,000

b. Health Services Building Asbestos Abatement

Bond Fund		5,100,000	

4. Department for Social Insurance

a. Child Support Enforcement Automation System

Agency Fund	167,200		
Federal Fund		1,504,500	
TOTAL		1,671,700	

I. JUSTICE

1. Department of State Police

a. Minor Projects

Investment Income		100,000	100,000

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

For the capital construction project displayed in this section as an agency fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. State-Owned Dam Repair

Investment Income		1,000,000	

The above appropriation shall not be used to repair dams owned by the Department of Fish and Wildlife Resources.

2. Kentucky Abandoned Lands - Reclamation Program

Federal Fund		24,000,000	24,500,000

The Commonwealth believes mining practices prior to the 1977 Federal Surface Mining Act have significantly degraded drinking water supplies. To promote the health and safety of its citizens, the Commonwealth supports a high priority ranking for those Abandoned Mine Land projects that insure safe and dependable water supplies.

3. Infrastructure Revolving Loan Fund

Bond Fund		6,937,000	4,734,200

4. Nature Preserves Acquisition Fund

Agency Fund		40,000	40,000

K. PUBLIC PROTECTION AND REGULATION

For the major equipment purchase displayed in this section as agency fund or general fund supported projects it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Public Service Commission		
a. Expand Current Central Processing Unit		
Agency Fund		150,000

L. TOURISM

The total project costs shown do not reflect additions to the operating fund appropriations.

1. Parks		
a. Miscellaneous Major Maintenance		
Investment Income	3,200,000	3,200,000
b. Kincaid Lake-Swimming Pool		
Bond Fund	768,400	
Agency Fund	50,000	
TOTAL	818,400	
c. Blue Licks-Multipurpose Building		
Bond Fund	285,000	
d. Jenny Wiley Meeting Room		
Bond Fund	544,000	
e. Greenbo Meeting Room		
Bond Fund	1,065,600	
f. Natural Bridge-Expansion of Kitchen and Dining Room		
Bond Fund	279,200	
g. Lake Barkley-Reroof Lodge		
Bond Fund	759,000	
h. Coal Museum-Feasibility Study and Land Purchase - Madisonville		
General Fund		
Bond Fund		

2. Kentucky Horse Park		
a. Miscellaneous Major Maintenance		
Investment Income	200,000	
b. Sewage Treatment Plant Expansion		
General Fund	300,000	
c. Show Facilities Development		
General Fund	450,000	460,000
3. State Fair Board		
a. Major Maintenance, Renovation and Repair Projects		
Investment Income	500,000	500,000
b. Exhibit Hall Expansion		
Bond Fund	15,000,000	
4. Fish and Wildlife Resources		
a. Miscellaneous Minor Projects		
Agency Fund	36,800	44,300
Federal Fund	110,200	132,700
Total	147,000	177,000
b. Minor Clark and Frankfort Hatchery Repairs		
Agency Fund	168,500	216,000
Federal Fund	505,500	648,000
TOTAL	674,000	864,000
c. Land Acquisition		
Agency Fund	1,020,000	1,020,000
d. Lakes Construction		
Agency Fund	35,000	35,000
Federal Fund	105,000	105,000
TOTAL	140,000	140,000

e. Education Center-Game Farm		
Agency Fund	350,000	
f. Swimming Pool-Camp Currie		
Agency Fund	200,000	
g. Backhoe		
Agency Fund	17,500	
Federal Fund	52,500	
TOTAL	70,000	

M. TRANSPORTATION

For the Major Equipment purchases and capital construction projects displayed in this section, it is anticipated that the funds shall be transferred from the operating fund at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Adair County Maintenance Facility		
Road Fund	401,600	
2. Perry County Maintenance Facility		
Road Fund		413,600
3. Interactive Graphics System Expansion and Enhancements		
Road Fund	397,100	422,500
4. Planning Office Building Renovation		
Road Fund	2,000,000	
5. Equipment Warehouse Complex Renovation		
Road Fund	655,000	
6. Weigh-In-Motion Equipment		
Road Fund	65,000	
7. Departmental Processor		
Road Fund	600,000	75,000
8. Women's Restrooms		
Road Fund	90,000	

9. Minor Emergency Projects Pool		
Road Fund	475,000	550,000
10. Salt Storage Domes		
Road Fund	360,000	360,000
11. Equipment Storage Sheds		
Road Fund	165,000	165,000
12. Owsley County Maintenance Facility		
Road Fund		
13. Lyon County Weigh Station		
Road Fund		
14. US-41 Port of Entry Weigh Station		
Federal Fund	165,000	1,365,000
Road Fund	55,000	455,000
TOTAL	220,000	1,820,000

In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any General Fund appropriated debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund. Those projects set forth under the sub-heading "higher education" are subject to the action and approval of the Council on Higher Education and subject to approval of the Finance and Administration Cabinet. The provisions of KRS 45.750 through 45.990 notwithstanding, it is the intent of the General Assembly that capital construction projects at institutions of higher education involving no state or federal funds, may be authorized between Regular Sessions of the General Assembly, providing that such projects receive prior approval from both the Council on Higher Education and the Secretary of the Finance and Administration Cabinet, and that the Capital Construction and Equipment Purchase Oversight Committee receives prior notification.

Pursuant to the provisions of KRS 45.760(12), the Capital Construction and Equipment Purchase Contingency Fund may be used to advance funds to projects authorized to be financed by bonds and may be used to finance feasibility studies for future projects.

Roof repair or replacement projects shall be eligible for Emergency Repair, Maintenance, and Replacement Fund allotments, subject to the provisions of KRS 45.780.

Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440-56.720. Administration of the Economic Development Bond program by the Secretary of Commerce is subject to the guidelines contained herein: 1) Project selection criteria are to be developed by the Secretary of Commerce. The criteria shall include but not be limited to such issues as: a project's job creation and/or job retention potential, degree of public and/or private local involvement, and potential project payback and/or contribution in retiring the associated debt obligation. 2) Projects of state agencies are not eligible for funding from this source unless expressly provided for in the appropriation act. 3) Project selection shall be documented when presented to the Secretary of Finance. Included in the documentation shall be the rationale for selection and expected economic development impact. 4) Following approval by the Secretary of Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the Commerce Cabinet to the next regularly scheduled Capital Construction and Equipment Purchase Oversight Committee meeting for information and review under the provisions of KRS 45.750-45.800.

Inasmuch as the identification of specific projects in a variety of areas of the State Government cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly, to appropriate amounts for specific purposes to projects which are not individually identified herein in the following areas: Repair of State-Owned Dams, Economic Development Projects, Handicapped Access, Fire and Life Safety, and Asbestos Litigation and Abatement projects. Any such projects estimated to cost over $200,000 and equipment estimated to cost over $50,000 shall be reported to the Capital Construction and Equipment Purchase Oversight Committee. All monies transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and Administration Cabinet for capital construction.

PART VI

GENERAL PROVISIONS

1. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1988, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500 and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

2. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Finance and Administration Cabinet, and the Departments of Treasury and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs.

4. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act except as provided by Chapters 12, 42, 56, 152, 177, and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed, unless otherwise provided by this Act.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation and legislative and executive records.

6. Any General Fund appropriation made herein in anticipation of a lack, loss, or reduction of Federal funds shall lapse to the General Fund to the extent such Federal funds otherwise become available.

7. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within seventy-five days upon adjournment of the 1988 General Assembly, to prepare a final budget document based upon the Executive Budget proposal as enacted by the 1988 General Assembly as well as other acts which provide appropriations for the 1988-90 biennium and based upon supporting documentation and legislative records as considered by the 1988 General Assembly. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and such other fiscal data and commentary considered necessary by the Governor's Office for Policy and Management for budget execution and oversight.

The enacted budget document and any adjustments thereto approved by the Governor's Office for Policy and Management as provided in each part of this Act or by Law, and any supporting documents, shall be communicated to the Interim Joint Committee on Appropriations and Revenue on a regular basis.

8. In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any appropriated General Fund debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund. In the event that General Fund appropriated debt service is less than required due to favorable interest rates, refinancing, or timing variances, the excess debt service in each fiscal year shall remain unallotted and lapse to the credit of the General Fund.

9. It is the intent of the General Assembly that the Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

10. A Budget Reserve Trust Fund is hereby established. There is appropriated from the General Fund, $15,000,000 for fiscal year 1988-89 and $20,000,000 for fiscal year 1989-90 to the Budget Reserve Trust Fund.

These funds shall be used in the event actual General Fund receipts during the 1988-89 fiscal year or the 1989-90 fiscal year are not sufficient to meet the General Fund appropriation levels authorized by this Act or other general biennial appropriations bills. In addition, allotments from the Budget Reserve Trust Fund may be made for items deemed to be emergency or mandated expenditures elsewhere provided for in this Act.

No allotment or expenditure from the Budget Reserve Trust Fund shall be made except upon approval of the Governor of the Commonwealth. The Secretary of the Finance and Administration Cabinet shall communicate any allotment or expenditure from the Budget Reserve Trust Fund, in writing, to the Interim Joint Committee on Appropriations and Revenue.

Any unexpended balance remaining at the close of the 1988-89 fiscal year shall not lapse, but shall continue into the 1989-90 fiscal year.

11. There is hereby established a General Fund surplus expenditure plan for fiscal year 1988-89 and fiscal year 1989-90, pursuant to KRS 48.140. This plan is for the expenditure of excess General Fund revenue receipts up to two and one-half percent (2.5%) in excess of the revenue receipts estimate for the General Fund as determined by subsection (3) of KRS 48.120.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1987-88 and after the close of fiscal year 1988-89, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120, the amount of excess unappropriated receipts available after all allocations required by the Local Government Economic Assistance Fund, pursuant to KRS 42.450, have been adjusted.

The Secretary of the Finance and Administration Cabinet is then hereby authorized, first, to restore the Budget Reserve Trust Fund to its original level of appropriation in the event that appropriations which have been made to the Budget Reserve Trust Fund have been depleted in whole or in part. Second, the Budget Reserve Trust Fund shall be increased by an additional $15,000,000 each fiscal year. Third, notwithstanding the dollar limitations in KRS 45.750-45.800, additional funds may be allotted for nonrecurring capital construction projects and/or major equipment items, in an amount not to exceed $15,000,000, or for feasibility studies approved by the 1988 General Assembly which have been insufficiently funded.

12. The General Assembly recognizes that during fiscal year 1986-87 and fiscal year 1987-88, the General Fund revenues of the Commonwealth were less than the estimates upon which appropriations for those fiscal years were made under KRS Chapter 47 by the 1986 General Assembly. The General Assembly acknowledges that as a result of shortfalls in the revenues during the biennium for which funds were appropriated by the 1986 General Assembly the Secretary of the Finance and Administration Cabinet, as directed by KRS Chapter 47, took action to prevent an overdraft or deficit in the finances of the Commonwealth through the reduction of appropriations made under authority conferred pursuant to KRS Chapter 47 and by various other actions, all as set forth in and provided by Orders 87-462, 87-831, 87-881, and 88-432 of the Secretary

of the Finance and Administration Cabinet, which Orders are permanent records of the Commonwealth, on file with the State Budget Director in the Governor's Office for Policy and Management.

It is the intent of the General Assembly herein to ratify and confirm the appropriation levels appearing in Orders 87-462, 87-831, 87-881, and 88-432 of the Secretary of the Finance and Administration Cabinet as the General Fund appropriations for fiscal year 1986-87 and fiscal year 1987-88, respectively, for the offices, boards, commissions, institutions, subdivisions and agencies of the Government of the Commonwealth of Kentucky, except so much thereof as relates to the appropriation to the Local Government Economic Assistance Fund, which sum shall be determined as provided by KRS 42.450; it is the further intent of the General Assembly herein, the provisions of any other law of the Commonwealth to the contrary notwithstanding, to ratify and confirm the advances, transfers and lapsing to the General Fund of all non-General Fund monies as identified in Orders 87-462, 87-831, 87-881, and 88-432 of the Secretary of the Finance and Administration Cabinet, and to that end, the General Assembly hereby expressly ratifies, adopts, and enacts the appropriation levels contained in Orders 87-462, 87-831, 87-881, and 88-432, as the appropriations for the offices, boards, commissions, institutions, subdivisions, and agencies of the Government of the Commonwealth for fiscal year 1986-87 and fiscal year 1987-88, and to the extent in conflict therewith the appropriation levels set forth in KRS Chapter 47 shall be read as conforming to the levels of appropriation hereby enacted.

PART VII

STATE OFFICERS SALARIES

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government required the following action.

2. Notwithstanding the provisions of KRS 15.755, 15.765, 18A.355, 64.055, 64.480, and 64.485, the salaries of the various state officials for fiscal year 1989 shall be increased by two percent (2%) over fiscal year 1988.

3. For fiscal year 1990, salary increases for state officers shall be computed against the fiscal year 1989 adjusted base mandated in paragraph 2. above.

PART VIII

FUND TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is hereby transferred from the agency and special funds enumerated below to the General Fund the following amounts in fiscal years 1988-89 and 1989-90.

	1988-89	1989-90
1. Kentucky Retirement Systems (KRS 61.580 and 16.565)	$3,200,000	$3,200,000

Notwithstanding KRS 61.565, an amount equal to one percent (1%) of the employer's share of General Fund deductions made for retirement contributions to the Kentucky Employees Retirement System and the State Police Retirement System shall be transferred to the General Fund. This amount shall be no less than $3,200,000 each year of the biennium.

	1988-89	1989-90
2. Division of Water Patrol (KRS 235.330)		$250,000
3. Department of Fish and Wildlife Resources (KRS 150.150)		$1,000,000

Beginning July 1, 1989, the Commission shall lapse to the General Fund at the end of each fiscal quarter funds representing investment income and other sources of revenue not related to federal aid programs.

4. Kentucky Law Enforcement Foundation Program Fund (KRS 15.430-500; 42.190; and 136.391)	$17,000,000	$5,000,000
5. Fire and Tornado Insurance Fund (KRS 45.100)		$2,000,000
6. Department of Insurance (KRS 304.2-300 and KRS 304.2-400)		$2,000,000
7. Department of Financial Institutions (KRS 287.485)		$1,400,000
8. Professional Firefighters Foundation Fund (KRS 94A.220)	$2,539,000	$8,000,000
9. Commerce Cabinet/Office of the Secretary Economic Development		
Bond Repayments (KRS Chapter 47)		$ 1,000,000

PART IX

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is hereby established a General Fund Budget Reduction Plan for state government for fiscal year 1988-89 and fiscal year 1989-90. Direct services and obligations essential to the minimum level of constitutional functions are exempted from the requirements of this Plan.

A. In the event of a reduction (revenue shortfall) in the estimated General Fund revenue receipts of $3,277,889,600 for fiscal year 1988-89 and $3,442,357,500 for fiscal year 1989-90, the heads of the Executive, Judicial, and Legislative Branches shall implement pro-rata reductions for their respective branches in the following sequence:

1. The Local Government Economic Assistance Fund shall be adjusted to equal revised estimates of receipts pursuant to KRS 42.450.

2. Funds available in the General Fund Surplus Account, created by KRS 48.700, shall be applied toward the revenue shortfall.

3. The appropriations to the Budget Reserve Trust Fund shall be reduced by an amount not to exceed $10,000,000 in each respective fiscal year.

4. If the actions outlined above pursuant to paragraphs 2. and 3. are insufficient to eliminate the revenue shortfall, it is then the intent of the General Assembly that the governor of the Commonwealth of Kentucky be empowered to take other necessary actions, including the transfer of excess or unbudgeted agency funds to the General Fund, to balance the budget.

The Committee Substitute to **HB 516** is as follows:

HB 516, AN ACT relating to appropriations for the operation, maintenance, support, and functioning of the government of the Commonwealth of Kentucky and its various officers, cabinets, departments, boards, commissions, institutions, subdivisions, agencies, and other state supported activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

GENERAL FUND

There is appropriated out of the General Fund for the fiscal year ending June 30, 1988, and, including any funds pursuant to KRS 48.700 as of June 30, 1988, for the fiscal year beginning July 1, 1988, and ending June 30, 1989, and, including any funds pursuant to KRS 48.700 as of June 30, 1989, for the fiscal year beginning July 1, 1989, and ending June 30, 1990, the following sums, or so much thereof as may be necessary, for the following officers, cabinets, departments, boards, commissions, institutions, subdivisions, and agencies of the State Government, and any and all other activities of the government of the Commonwealth of Kentucky subject to the provisions of Chapters 12, 42, 45, and 48 of the Kentucky Revised Statutes, for which a specific appropriation is in Part I as follows:

A. GOVERNMENT OPERATIONS

1. EXECUTIVE OFFICE OF THE GOVERNOR

a. Office of the Governor

1988-89	$ 4,335,500
1989-90	$ 4,204,100

Included in the above appropriation is $600,000 in fiscal year 1988-89 and $600,000 in fiscal year 1989-90 for the Governor's Scholars Program. Also included in the above appropriation in each year of the biennium is $18,000 for the Governor's expense allowance to meet additional expenses associated with the position of Governor of Kentucky as specified in KRS 64.710. In addition, $200,000 is included in the fiscal year 1988-89 appropriation in the Governor's Office for the Kentucky Lottery Commission. Also included is $100,000 in fiscal year 1988-89 and $100,000 in fiscal year 1989-90 for continuation of the Bluegrass State Games.

b. Governor's Office for Policy and Management

1988-89	$ 1,821,100
1989-90	$ 1,852,400

c. State Planning Fund

1988-89	$ 250,000
1989-90	$ 250,000

The Governor is hereby authorized to expend funds for the improvement and advancement of governmental purposes and activities.

TOTAL—EXECUTIVE OFFICE OF THE GOVERNOR

1988-89	$ 6,406,600
1989-90	$ 6,306,500

2. LIEUTENANT GOVERNOR

1988-89	$ 513,100
1989-90	$ 522,400

Included in the above appropriation in each year of the biennium is $10,000 for the Lieutenant Governor's expense allowance associated with the position of Lieutenant Governor of Kentucky as specified in KRS 64.710.

3. SECRETARY OF STATE

a. General Operations

1987-88	$ 26,000
1988-89	$ 1,544,700
1989-90	$ 1,406,000

b. Restoration of Land Grant Books

1988-89	$ 44,000
1989-90	$ 44,000

The fiscal year 1987-88 appropriation is reduced $26,000.

TOTAL—SECRETARY OF STATE

1987-88	$ 26,000
1988-89	$ 1,588,700
1989-90	$ 1,450,000

4. BOARD OF ELECTIONS

1987-88	$ 2,250,000
1988-89	$ 1,391,800
1989-90	$ 1,337,900

Included in the above appropriation is $601,000 in fiscal year 1988-89 and $601,000 in fiscal year 1989-90 to pay the state's share of county election expenses (KRS 117.345) and the state's share of voter registration expenses (KRS 116.105). Any unexpended balance remaining at the close of each fiscal year shall lapse to the credit of the General Fund. Any amount that the state is required to pay in excess of the above amounts under the provisions of KRS 116.145 is hereby appropriated.

Included in the current year is $2,250,000 which shall be used to pay for the normal and ordinary expenses of the Presidential Preference Primary. Payments from this appropriation are authorized only upon receipt of a detailed itemized listing by precinct of actual expenses incurred by the counties for the conduct of the Presidential Preference Primary, presented to the State Board of Elections and approved by the Secretary of the Finance and Administration Cabinet. In no instance shall the amount reimbursed to any county exceed an average of $695 per precinct.

5. TREASURY

1988-89	$ 1,392,400
1989-90	$ 1,433,100

6. DEPARTMENT OF LAW

1988-89	$ 5,356,600
1989-90	$ 5,525,900

7. UNIFIED PROSECUTORIAL SYSTEM

a. Commonwealth's Attorney

1988-89	$ 9,166,400
1989-90	$ 9,597,300

b. County Attorney

1988-89	$ 9,322,800
1989-90	$ 10,000,400

TOTAL—UNIFIED PROSECUTORIAL SYSTEM

1988-89	$ 18,489,200
1989-90	$ 19,597,700

8. AUDITOR OF PUBLIC ACCOUNTS

1988-89	$ 2,786,200
1989-90	$ 2,862,500

The Auditor of Public Accounts shall report in writing each sixty (60) days to the Interim Joint Committee on Appropriations and Revenue the progress of all state audits, together with copies of all completed audits.

No state agency shall enter into any contract with a non-governmental entity for an audit unless the Auditor of Public Accounts has declined in writing to perform the audit or has failed to respond within thirty (30) days of receipt of a written request. The agency requesting the audit shall furnish the Auditor of Public Accounts a comprehensive statement of the scope and nature of the proposed audit.

There is hereby appropriated to the Auditor of Public Accounts funds which are required in the auditing of federal disaster relief funds.

The Auditor shall maintain a record of all time and expenses for each audit or investigation.

Any additional expense incurred by the Auditor of Public Accounts for auditing federal funds, when such audits are mandated by a cognizant federal audit agency, shall be charged to the audited agency, when such costs may be charged against federal funds. The Auditor of Public Accounts is hereby authorized to receive these federal funds in a separate account to be established for this purpose. The Auditor shall maintain a record of all costs and expenditures associated with this provision.

9. DEPARTMENT OF AGRICULTURE

1988-89	$ 10,873,500
1989-90	$ 11,193,700

10. DEPARTMENT OF MILITARY AFFAIRS

1988-89	$ 7,358,400
1989-90	$ 8,054,900

Included in the above appropriation is $302,200 each fiscal year for debt service for the Veteran's Nursing Home at the Wilmore site. Included in the above appropriation is $392,800 in fiscal year 1988-89 and $392,800 in fiscal year 1989-90 for the Kentucky Early Warning System (KEWS) operation of which $10,000 each year is intended for the maintenance of radio equipment.

There is hereby appropriated to the Department funds which are required as a result of the Governor's call of the Kentucky National Guard to active duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

There is hereby appropriated to the Department funds required to match federal aid to which the state would be eligible in the event of a Presidentially-declared disaster or emergency.

11. DEPARTMENT OF PERSONNEL

1987-88	$ 250,000
1988-89	$ 4,603,200
1989-90	$ 4,976,100

12. PERSONNEL BOARD

1988-89	$ 314,700
1989-90	$ 319,700

13. DEPARTMENT FOR LOCAL GOVERNMENT

1988-89	$ 5,273,700
1989-90	$ 5,518,800

14. COUNTY COSTS

	1988-89	1989-90
a. Base Court Revenue	$5,431,000	$5,431,000
b. Sheriffs' Fees	1,374,500	1,374,500
c. Jury Fund	3,971,900	3,971,900
d. Witnesses	119,600	119,600
e. Special Bailiffs	26,600	26,600
f. Board of Assessment Appeals	20,600	20,600
g. Fugitives from Justice	368,700	368,700
h. Sheriffs' Expense Allowance	432,000	432,000
i. Premium on Sheriffs' Bonds	558,900	575,700
j. County Clerks - Making Tax Bills	620,800	639,400

TOTAL—COUNTY COSTS

1988-89	$ 12,924,600
1989-90	$ 12,960,000

15. Kentucky Center for the Arts

1988-89	$ 3,354,000
1989-90	$ 3,359,000

Included in the above appropriations are $600,000 each fiscal year for general operating expenses and $2,754,000 in fiscal year 1988-89 and $2,759,000 in fiscal year 1989-90 for debt service payments.

16. SPECIAL FUNDS

a. Local Government Economic Assistance Fund

1987-88	$ 810,000

1988-89	$ 32,260,000
1989-90	$ 31,990,000

The above appropriations are based on the official estimate of the Secretary of Finance and Administration for severance tax collections during the biennium, distributed in accordance with KRS 42.450 through 42.495. The appropriation in fiscal year 1988-89 includes $600,000 from coal severance tax receipts estimated to be collected through the accelerated tax collection program. In the event actual severance tax receipts are different from the official estimate, the amount to be allotted to the Local Government Economic Assistance Fund shall be determined in accordance with KRS 42.450 through 42.495.

b. Area Development Fund

1988-89	$ 5,000,000
1989-90	$ 5,000,000

Funds appropriated for the Area Development Fund shall be limited to these amounts notwithstanding the provisions set forth in KRS 48.185.

TOTAL—SPECIAL FUNDS

1987-88	$ 810,000
1988-89	$ 37,260,000
1989-90	$ 36,990,000

17. CAPITAL PLAZA

1988-89	$ 2,286,500
1989-90	$ 2,255,000

Included in the above appropriation is $1,741,800 in fiscal year 1988-89 and $1,736,800 in fiscal year 1989-90 wl shall be used for debt service for the Capital Plaza.

Also included in the above appropriation is $66,000 in fiscal year 1988-89 and $64,000 in fiscal year 1989-90 payment of debt service to replace the bleachers at the Farnham Dudgeon Civic Center with "chair-back" seats.

18. GENERAL OBLIGATION BONDS

a. Park Bonds

1988-89	$ 561,000
1989-90	$ 562,000

b. Veterans Bonus Bonds

1988-89	$ 7,888,000
1989-90	$ 7,893,000

c. 1965 General Purpose Bonds

1988-89	$ 2,059,000
1989-90	$ 2,063,000

TOTAL—GENERAL OBLIGATION BONDS

1988-89	$ 10,508,000
1989-90	$ 10,518,000

19. FINANCIAL DISCLOSURE REVIEW COMMISSION

1988-89	$ 53,100
1989-90	$ 55,400

20. MISCELLANEOUS APPROPRIATIONS

a. Board of Claims Awards

1988-89	$ 300,000
1989-90	$ 300,000

Funds are appropriated for the repayment of awards or judgments made by the Board of Claims against departments, boards, commissions, and other agencies maintained by appropriations out of the General Fund.

However, awards under $500, in cases where the operating agency admits negligence, shall be paid from funds available for the operations of such agencies.

b. Judgments

1988-89	$ 500,000
1989-90	$ 500,000

For payment of such judgments as may be rendered against the Commonwealth by courts and orders of the State Personnel Board; such payments, where applicable, shall be subject to the provisions of KRS Chapter 45. Also, to pay medical malpractice judgments against the University of Kentucky and the University of Louisville in accordance with KRS 164.941 and 164.892. However, in no event shall the total payments exceed the sum of $5,500,000 in any fiscal year.

c. Guardian Ad Litem

1988-89	$ 750,000
1989-90	$ 750,000

d. Prior Year Claims

1988-89	$ 100,000
1989-90	$ 100,000

e. Unredeemed Checks Refunded

1988-89	$ 60,000
1989-90	$ 60,000

Checks written by the State Treasurer and not cashed within the statutory period may be presented to the State Treasurer for reissuance in accordance with the provisions of KRS 41.370.

f. Blanket Employees Bonds

1988-89	$ 140,000

For payment of premiums on blanket surety bonds as provided by KRS 62.170.

g. Frankfort Planning Commission

1988-89	$ 1,000
1989-90	$ 1,000

h. Frankfort Cemetery

1988-89	$ 2,500
1989-90	$ 2,500

i. Public Improvements

1988-89	$ 5,000
1989-90	$ 5,000

Funds are appropriated for paying assessments for public improvements against property owned by the Commonwealth, and for which assessments the Commonwealth is deemed to be liable.

j. Police and Firemen—Life Insurance

1988-89	$ 50,000
1989-90	$ 50,000

Funds are appropriated for payment of benefits for state and local police and firemen in accordance with KRS 61.315.

k. Workers' Compensation

1988-89	$ 40,000
1989-90	$ 40,000

Fee officers in counties over 75,000 in population.

l. Master Commissioners—Employers Retirement

1988-89	$ 63,000
1989-90	$ 63,000

m. Master Commissioners—Social Security

1988-89	$ 100,000
1989-90	$ 100,000

n. Money Refunded

1988-89	$ 2,000
1989-90	$ 2,000

For refunding money paid into the State Treasury, which may later be determined not to be a lawful collection by the State. No money shall be refunded, however, after it has been paid into the State Treasury except by authority of the head of the department or agency to whom the money was originally paid and with the approval of the Secretary of the Finance and Administration Cabinet and the Attorney General.

TOTAL—MISCELLANEOUS APPROPRIATIONS

1988-89	$ 2,113,500
1989-90	$ 1,973,500

Funds required to pay the costs of items included within the Miscellaneous Appropriations category are hereby appropriated, and any required expenditure over the above amounts is to be paid from the General Fund Surplus Account.

21. FLOOD CONTROL ADVISORY COMMISSION

1988-89	$ 114,000
1989-90	$ 117,800

22. COMMISSION ON HUMAN RIGHTS

1988-89	$ 1,239,700
1989-90	$ 1,264,700

23. COMMISSION ON WOMEN

1988-89	$ 190,200
1989-90	$ 195,200

TOTAL—GOVERNMENT OPERATIONS

1987-88	$ 2,526,000
1988-89	$ 136,391,700
1989-90	$ 138,787,800

B. COMMERCE

24. OFFICE OF THE SECRETARY

1988-89	$ 39,724,800
1989-90	$ 44,832,300

Included in the above appropriation is $22,945,200 in fiscal year 1988-89 and $22,942,400 in fiscal year 1988-90 for debt service payments on the Economic Development Bond Program for the previously authorized bond issues. Included as a part of the debt service figures for the $92 million bond authorization is an amount not to exceed $3,389,868 in fiscal year 1988-89 and $3,387,868 in fiscal year 1989-90 for the lease rental payments associated with the $36,600,000 Economic Development Road Bond issue of the Kentucky Turnpike Authority. The Secretary of Transportation shall certify to the Secretary of Commerce the actual amount required to meet the lease rental payment.

Included in the above appropriation are the following for the newly authorized issues: $851,400 in fiscal year 1988-89 and $851,400 in fiscal year 1989-90 for debt service payments associated with the $6.5 million bond authorization for the Covington Riverside Parking Structure; $296,400 in fiscal year 1988-89 and $592,800 in fiscal year 1989-90 for debt service payments associated with the $4.5 million bond authorization for the Owensboro Downtown Development Project; $134,400 in fiscal year 1988-89 and $268,800 in fiscal year 1989-90 for debt service payments associated with the $2 million bond authorization for the Bluegrass Airport Project; $199,000 in fiscal year 1988-89 and $398,000 in fiscal year 1989-90 for the debt service payments associated with the $3 million bond authorization for the Owensboro/Green River Steel Project; and $917,200 in fiscal year 1988-89 and $3,930,600 in fiscal year 1989-90 for the debt service payment associated $30 million economic development bond authorization.

Also included in the above appropriation is $11,791,500 in fiscal year 1988-89 and $14,071,700 in fiscal year 1989-90 for the Bluegrass State Skills Corporation.

No commitment for employe training shall be made beyond the ability of the cabinet to fund the project within the appropriation for the current biennium.

25. DEPARTMENT OF ECONOMIC DEVELOPMENT

1988-89	$ 3,724,500
1989-90	$ 3,813,400

26. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1988-89	$ 5,916,100
1989-90	$ 5,947,100

Included in the above appropriation is $5,916,100 in fiscal year 1988-89 and $5,947,100 in fiscal year 1989-90 for debt service payments associated with the $50 million bond issue authorized in 1982 and the $5 million bond issue authorized in 1986 for the Kentucky Development Finance Authority loan program.

27. DEPARTMENT OF THE ARTS

1988-89	$ 4,348,200
1989-90	$ 4,250,800

Included in the above appropriation is $150,000 in fiscal year 1988-89 and $150,000 in fiscal year 1989-90 for the Governor's Institute for the Arts. Also included in the above appropriation is $1,800,000 in each fiscal year for the Development and Challenge Grant programs to be administered by the Kentucky Arts Council.

Included in the above appropriation is $120,000 each fiscal year for Outdoor Drama Grants.

TOTAL—COMMERCE

1988-89	$ 53,713,600
1989-90	$ 58,843,600

C. CORRECTIONS

28. CORRECTIONS CABINET

a. Corrections Management

1988-89	$ 15,705,800
1989-90	$ 18,941,800

Included in the above appropriation is $8,938,000 in fiscal year 1988-89 and $9,001,000 in fiscal year 1989-90 for continuing debt service for State Property and Buildings Commission Project 32 and Project 36 bonds.

Included in the above appropriation is $2,410,500 in fiscal year 1988-89 and $4,454,700 in fiscal year 1989-90 for debt service to fund the expansion of the Morgan County facility, a new 152-bed replacement dormitory at the Kentucky State Reformatory, the conversion of the Roederer Farm Center facility to a medium security facility, the construction of a new 150-bed minimum security unit at Roederer Farm Center, and additional funding for the upgrade and expansion of the Kentucky Correctional Institution for Women.

Also included in the above appropriation is $1,021,200 in fiscal year 1989-90 for the acquisition and conversion of a facility to provide 300 medium security beds. Also included in the above appropriation is $764,700 in fiscal year 1988-89 and $793,000 in fiscal year 1989-90 for the operation of the Parole Board.

It is the intent of the 1988 General Assembly, notwithstanding the provision of KRS 439.315(2)(a) and (b) to the contrary, any person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the Corrections Cabinet, or the Department of Community Services and Local Facilities, shall pay a minimum fee not less than $4 per week to offset the costs of supervising the probation, parole, or other supervised release.

In the event that the releasing authority waives the payment of such fees, a detailed quarterly report shall be provided to the Interim Joint Committee on Appropriations and Revenue and Legislative Research Commission justifying said waivers. The quarterly report shall also detail the number of releases, fees accessed, and fees received for each period.

It is further the intention of the 1988 General Assembly that if the above supervision fees exceed collections totalling $367,500 in fiscal year 1988-89 and $374,900 in fiscal year 1989-90, then the excess fees up to $37,200 in fiscal year 1988-89 and $34,400 in fiscal year 1989-90 shall be appropriated from the General Fund to the Department of Community Services and Local Facilities for the operations of the Kentucky Substance Abuse Program.

b. Adult Institutions

1988-89	$ 61,999,600
1989-90	$ 71,402,300

c. Community Service and Local Facilities

1987-88	$ 500,000
1988-89	$ 26,330,300
1989-90	$ 25,257,700

d. Local Jails Support

1988-89	$ 15,476,600
1989-90	$ 15,476,600

Included in the above appropriation is $954,800 in fiscal year 1988-89 and $954,800 in fiscal year 1989-90 for medical care contracts to be distributed, upon approval of the Corrections Cabinet, to counties by the formula codified in KRS 441.206; $200,000 in fiscal year 1988-89 and $200,000 in fiscal year 1989-90 is provided, on a partial reimbursement basis, for medical claims in excess of the statutorially established threshold pursuant to KRS 441.045.

It is the intent of the General Assembly that the $954,800 in fiscal year 1988-89 and $954,800 in fiscal year 1989-90 for medical contracts be maintained in an account specifically for medical contracts and that a county must be certified by the Corrections Cabinet to receive its pro rated share. To obtain certification, a county must submit a notarized statement to the Cabinet which states that it has, to the best of its ability, investigated and obtained the most feasible medical contract or contracts possible. A copy of the contract shall be appended to the letter requesting certification. Upon receipt of the letter requesting certification, the Corrections Cabinet shall review, and if approvable, distribute the funds as appropriate. If the contract is not approvable, the Cabinet must respond in writing to the county concerning its decision and basis for objection. In no event shall the Cabinet release funds without giving proper certification. In no event shall moneys be expended for medical services or supplies that are not provided through an approved contract.

It is the intention of the General Assembly that $200,000 in fiscal year 1988-89 and $200,000 in fiscal year 1989-90 be maintained in a separate account for catastrophic medical expenses for indigents. It is the intention of the General Assembly that any medical claim which exceeds the statutorial threshold may be reimbursed for that amount in excess of the statutorial threshold. In no event shall this apply to expenses of an elective, as opposed to emergency, basis and expenses shall be paid according to the Kentucky Medical Assistance Schedule.

TOTAL—CORRECTIONS

1987-88	$ 500,000
1988-89	$ 119,512,300
1989-90	$ 131,078,400

D. EDUCATION AND HUMANITIES

29. DEPARTMENT OF EDUCATION

a. General Administration

1988-89	$ 9,447,300

1989-90	$ 9,926,700

Included in the above appropriation is $134,000 in fiscal year 1988-89 and $429,600 in fiscal year 1989-90 for debt service, and $2,385,100 in fiscal year 1988-89 and $2,385,100 in fiscal year 1989-90 for maintenance of facilities and building insurance costs. The amounts herein identified shall be expended for these purposes and no others, except as provided in this Act. Any surplus shall lapse to the General Fund.

b. Local District Health and Life Insurance

1987-88	$ 18,644,600
1988-89	$ 72,384,600
1989-90	$ 84,795,600

Included in the above appropriation is $514,100 in fiscal year 1988-89 and $519,400 in fiscal year 1989-90 to provide life insurance to each full-time certified and non-certified employee of local boards of education. Also included in the above appropriation is $71,647,500 in fiscal year 1988-89 and $83,681,700 in fiscal year 1989-90 to purchase medical insurance for certified and non-certified full-time employees of local boards of education pursuant to applicable statutes and regulations. If the costs for life insurance or health insurance exceed the levels of appropriated funds, any unexpended School Foundation Program funds may be used to offset such expenditures, subject to the approval of the Secretary of the Finance and Administration Cabinet.

c. Education for Exceptional Children

1988-89	$ 10,259,700
1989-90	$ 10,613,100

Of the above appropriation, at least $3,424,500 in fiscal year 1988-89 and at least $3,578,100 in fiscal year 1989-90 is included for the Kentucky School for the Blind, and at least $5,378,800 in fiscal year 1988-89 and at least $5,539,400 in fiscal year 1989-90 is included for the Kentucky School for the Deaf.

Also included in this appropriation is $294,000 in fiscal year 1988-89 and $319,000 in fiscal year 1989-90 for debt service for the Kentucky School for the Blind.

d. School Foundation Program

1988-89	$ 1,067,513,100
1989-90	$ 1,118,436,700

Accumulated earnings for the Common School Fund shall each fiscal year be transferred to the School Foundation Program.

Funds appropriated to the School Foundation Program shall be allotted to school districts in accordance with KRS 157.310 through 157.430, except that the total of the funds allotted shall not exceed the appropriations for this purpose except as provided in this Act. If funds appropriated to the School Foundation Program are insufficient to provide the amount of money required under KRS 157.390(6), allotments to local school districts shall be reduced in accordance with KRS 157.430.

The amount to be included for the 1988-89 school year in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following schedule, for a term of 185 days for each rank:

Rank Experience	I	II	III	IV	V
0-3 years	20,780	18,610	16,420	14,140	13,040
4-9 years	22,950	20,780	18,610	14,140	13,040
10-14 years	25,770	23,580	21,390	14,140	13,040

15 years	26,600	24,420	22,230	14,140	13,040
20 year and over	27,010	24,830	22,630	14,140	13,040

Beginning with the school year 1989-90, the amount to be included in the Foundation Program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the following allotment schedule, for a term of 185 days, for each rank;

Rank Experience	I	II	III	IV	V
0-3 years	21,820	19,540	17,240	14,850	13,690
4-9 years	24,100	21,820	19,540	14,850	13,690
10-14 years	27,060	24,760	22,460	14,850	13,690
15-19 years	27,930	25,640	23,340	14,850	13,690
20 years and over	28,360	26,070	23,760	14,850	13,690

No working budget or salary schedule shall be approved in which the average salary paid any rank of teachers is not at least equivalent to the allotment for that rank, or in which any teacher is paid less than ninety-three percent (93%) of the School Foundation Program allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390(4) shall be reduced by an amount equal to the amount by which the district failed to meet salary requirements, except where there is a decline in local revenue of the district concerned after it has levied the maximum ad valorem property tax rate permitted by law. Any such reduction permitted shall be only for the amount of the decline in local revenue.

In the event any local board of education contends there has been a decline in local tax resources in that district, the State Board of Education shall certify such contention to the Revenue Cabinet. Said Cabinet shall then determine whether there has, in fact, been a decline in local tax resources of such district, and, if so, the amount of such decline. The Revenue Cabinet shall then certify its determination to the State Board of Education, and Board shall accept such certified determination as final.

The State Board of Education shall not approve any working budgets or salary schedule summaries for local boards of education for the school years 1988-89 and 1989-90 in which the total amount for 185 days on the salary schedule summary for School Foundation Program teachers' instructional salaries is not equal to the amount for 185 days on the salary schedule summary for school foundation program teachers' instructional salaries in the preceding year, plus the additional amount for teachers' salaries received by the district under this appropriation for a 185-day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year in each local school district.

Local school district personnel who are employed beyond the regular school term of 185 days shall be so employed in accordance with the provisions of KRS 157.390(4) and 702 KAR 1:025. Funding for these extended employment days shall not exceed $24,151,400 in fiscal year 1988-89 and $25,359,000 in fiscal year 1989-90.

Included in the above appropriations are funds to extend the employment of all vocational agriculture units funded in the school foundation program to two hundred forty (240) days.

The allotment of any school district classroom units, pursuant to KRS 157.360 (1) shall not exceed the number of teachers employed by that school district.

Notwithstanding the provisions of KRS 157.360(2)(b)(c)(e), in fiscal year 1988-89 the allotment to school districts of basic classroom units for grades one (1) through three (3) shall be made on the basis of one for every twenty-two (22) pupils in average daily attendance, the allotments to school districts for grades four (4) through six (6) shall be made on the basis of one (1) for every twenty-six (26) pupils in average daily attendance; and the allotment for grades seven (7) through twelve (12) shall be made on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance. In fiscal year 1989-90 the allotment to school districts of basic classroom units for grades one (1) and two (2) shall be made on the basis of one (1) for every twenty-one (21) pupils in average daily attendance; the allotment for grade three (3) shall be made on the basis of one (1) for every twenty-two (22) pupils in average daily attendance; the allotment for grade four (4) shall be made on the basis of one (1) for every twenty-five (25) pupils in average daily attendance;

the allotment for grades five (5) and six (6) shall be made on the basis of one (1) for every twenty-six (26) pupils in average daily attendance; and the allotment for grades seven (7) through twelve (12) shall be made on the basis of one (1) for every twenty-seven (27) pupils in average daily attendance.

Notwithstanding the provisions of KRS 157.360(5), (6), and (10) the allotments, provision for which is made under this Act, for classroom units shall be as follows:

	1988-89	1989-90
Vocational Education	2,538	2,538
Exceptional Children	4,360	4,360

Provided, however, that if the budgeted units in any category of classroom units—Vocational Education, Exceptional Children, Kindergarten, classroom units for elementary and secondary schools, and units related to school administration—prove to be excessive, the surplus may be reallocated to any other category or categories by the Superintendent of Public Instruction, upon the approval of the State Board of Education and the Secretary of the Finance and Administration Cabinet.

Kindergarten units shall be allotted in fiscal year 1988-89 and fiscal year 1989-90 on the basis of one for every two classes with 25 pupils in average daily attendance in each class. The number of units allotted shall be based on end-of-year prior year average daily attendance including the percent of kindergarten increase in average daily attendance the first two months of the current year over the first two months of the previous school year.

The allotments of basic classroom units shall be made on the average daily attendance (ADA) for the end of the previous school year in public school grades one (1) through twelve (12) after the following deductions, (a) an average daily attendance of nine and six-tenths (9.6) in fiscal year 1988-89 and in fiscal year 1989-90 shall be deducted for each vocational education unit allotted, and (b) an average daily attendance of seven and two-tenths (7.2) in fiscal year 1988-89 and fiscal year 1989-90 shall be deducted for each exceptional children unit allotted.

The total number of administrative and special instructional services (ASIS) units allotted under KRS 157.360(12) shall be the sum of the total allotted number of basic units, kindergarten units, vocational units, and exceptional children units divided by nine.

The State Board of Education shall promulgate regulations upon the recommendation of the Superintendent of Public Instruction which shall cause ASIS units to be allocated with first priority given to funding units required for accreditation, and second priority given to adding units for classroom instruction. The third priority of funding shall be given to other needs for ASIS units in local school districts.

Allotments for ASIS classroom units pursuant to KRS 157.360(12) shall only be for those personnel who are qualified for their respective positions under applicable provisions of law and regulations and who maintain programs which have been approved pursuant to applicable regulations.

The amount to be included in the Foundation Program for other current expenses in the 1988-90 biennium shall be determined by multiplying the number of classroom units, excluding superintendent units, by: $5,263 in the 1988-89 school year and $5,421 in the 1989-90 school year.

The amount to be included in the Foundation Program for capital outlay shall be determined by multiplying the number of classroom units excluding superintendent units by: $1,800 in the 1988-89 school year and $1,800 in the 1989-90 school year.

In accordance with the intent of KRS 162.060 and 162.160, no space shall be rented, purchased, or otherwise acquired and thereafter converted to classroom use without prior approval of the Superintendent of Public Instruction. The State Board of Education may adopt regulations for the housing of school children. No facilities shall be approved for classroom use which are detrimental to the health of or dangerous to the safety of school children.

If a school district operates any school or grade of a school for a term of less than 185 days in accordance with KRS 158.070, or for a school day of less than the minimum required by KRS 158.060, the average daily attendance of such school shall be reduced proportionately by the Superintendent of Public Instruction in determining the allotment of classroom units.

Any undistributed balance in the Foundation Program fund at the end of the fiscal years 1988-89 and

1989-90 shall lapse to the General Fund except where provisions to the contrary are provided in this Act.

The total appropriation for the School Foundation Program shall be measured by, or construed as, estimates of the state expenditures required by KRS 157.310 et. seq. If the required expenditures exceed these estimates, the Secretary of the Finance and Administration Cabinet, with approval of the Governor, may increase the appropriation by such amount as may be available and necessary to meet, to the extent possible, the required expenditures under the hereinabove cited sections of the Kentucky Revised Statutes; provided, however, that any such increase of the total appropriation to the Foundation Program is subject to Part VI, General Provisions, of this Act, and the provisions of KRS Chapter 48.

Included in this appropriation is $85,810,000 in fiscal year 1988-89, and $85,810,000 in fiscal year 1989-90 for the costs of transporting pupils to and from school. Calculations of the allotments of pupil transportation funds to school districts shall be made in accordance with KRS 157.370, except that the total of the funds allotted under KRS 157.390(7) shall not exceed $85,810,000 in fiscal year 1988-89 and $85,810,000 in fiscal year 1989-90 provided, however, that these sums may be increased by any excess funds appropriated for the School Foundation Program, but no such increases shall exceed the total transportation cost calculated in accordance with KRS 157.370, subject to the approval of the Superintendent of Public Instruction and the Secretary of the Finance and Administration Cabinet, except where provisions to the contrary are stated in this Act.

In the event that the funds appropriated for pupil transportation in fiscal year 1988-89 and fiscal year 1989-90 are insufficient to provide allotments to local school districts in accordance with KRS 157.370, notwithstanding KRS 157.430, the allotments of funds for pupil transportation only to local school districts shall be ratably reduced without reducing other allotments under this appropriation.

Included in the School Foundation Program appropriation is $2,083,600 in fiscal year 1988-89 and $2,083,600 in fiscal year 1989-90 for Vocational Transportation.

e. Power Equalization

1988-89	$ 101,278,300
1989-90	$ 111,278,300

Funds are appropriated for the purpose of equalizing expenditures among students in local school districts in accordance with KRS 157.545 - 157.580, notwithstanding KRS 157.560(2). If funds appropriated for Power Equalization are insufficient to provide allotments to local school districts in accordance with KRS 157.545 - 157.580, the allotments to local school districts shall be ratably reduced.

f. Instruction

1988-89	$ 33,752,800
1989-90	$ 34,327,200

g. Local Services

1988-89	$ 18,315,700
1989-90	$ 16,967,300

Included in the above appropriation is $3,131,600 in fiscal year 1988-89 and $3,182,000 for fiscal year 1989-90 for reimbursement to local school districts for the Out-of-District Children program operated in accordance with KRS 158.135 and applicable regulations. Funds to be expended for the Out-of-District Children program shall be limited to these amounts, and if sufficient funds are not available within these allocated amounts to reimburse each district for the total allowed cost of the program, each allocation shall be ratably reduced to the level of available funds.

The above appropriation also includes $398,800 in fiscal year 1988-89 and $410,500 in fiscal year 1989-90 for school district audits; and $12,134,800 in fiscal year 1988-89 and $10,700,400 in fiscal year 1989-90 for the purchase of textbooks for grades kindergarten through eight. Local school districts shall establish, pursuant to State Board of Education regulations, a process whereby pupils may rent textbooks for a reasonable fee. Textbooks purchased by the State Board of Education, prior to July 1, 1984, for grades nine through twelve shall continue to be loaned or rented to pupils until they are no longer selected and listed by the State Textbook Commission. Rental fees collected by the district shall be used for the maintenance of the textbooks and the purchase of new textbooks.

The textbooks selected by the textbook commission for each subject and grade shall be used as basal texts in school districts for a period of six (6) years.

No appropriation is included in this Act for the replacement of student fees; therefore, public schools may charge students for necessary fees and rentals, and may require students to purchase necessary instructional materials.

h. Vocational Education

1988-89	$ 51,666,000
1989-90	$ 53,351,600

i. Vocational Rehabilitation

1988-89	$ 4,924,800
1989-90	$ 5,054,300

j. Administrative Services and Budget Management

1988-89	$ 6,508,600
1989-90	$ 6,057,200

k. Teacher Retirement Employer Contribution Match

1988-89	$ 6,600,000
1989-90	$ 6,825,000

Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560, except as otherwise provided in this Act.

TOTAL - DEPARTMENT OF EDUCATION

1987-88	$ 18,644,600
1988-89	$ 1,382,650,900
1989-90	$ 1,457,633,000

30. KENTUCKY EDUCATIONAL TELEVISION

1988-89	$ 9,894,400
1989-90	$ 10,489,500

Included in the above appropriation is $1,897,300 in fiscal year 1988-89 and $1,897,100 in fiscal year 1989-90 for debt service. Within this amount in fiscal year 1988-89 is $1,283,200 and $1,284,100 in fiscal year 1989-90 for debt service for the telecommunications center and the second channel and equipment. Also included in the above appropriation is $455,000 for start-up operating expenses in fiscal year 1989-90 for the Second Channel services.

31. HISTORICAL SOCIETY

1988-89	$ 1,742,400
1989-90	$ 1,840,800

32. LIBRARIES AND ARCHIVES

a. General Operations

1988-89 .... $ 6,364,400

1989-90 .... $ 6,540,700

Included in the above appropriation is $1,426,000 in fiscal year 1988-89 and $1,422,000 in fiscal year 1989-90 for debt service.

b. Direct Local Aid

1988-89 .... $ 4,504,900

1989-90 .... $ 4,563,400

Included in the above appropriation is $1,896,800 in fiscal year 1988-89 and $1,955,300 in fiscal year 1989-90 for state-aid grants to local public libraries. It is the intent of the General Assembly to distribute these funds according to the formula established by KRS 171.201 at the level of 38 cents per capita in fiscal year 1989 and 39.7 cents per capita in fiscal year 1990, notwithstanding any other provisions of KRS 171.201 to the contrary.

33. DEPARTMENT FOR THE BLIND

1988-89 .... $ 1,248,600

1989-90 .... $ 1,273,200

34. TEACHERS' RETIREMENT SYSTEM

1988-89 .... $ 138,614,200

1989-90 .... $ 138,694,700

Funds are appropriated to comply with the obligations of the state under the Teachers' Retirement System statutes as provided in KRS 161.220 through 161.716, notwithstanding the provisions of KRS 161.550, except as otherwise provided in this Act.

Included in the above appropriation is $2,760,000 in fiscal year 1988-89 and $2,940,000 in fiscal year 1989-90 in order to allow for 27-year retirement without penalty by Teachers' Retirement System members.

The above appropriation is based upon estimated funds needed to meet the requirements of KRS 161.220 through 161.716, notwithstanding the provisions of KRS 161.550. In the event the above appropriations are in excess of these requirements, such excess funds shall lapse to the credit of the General Fund.

In accordance with KRS 161.420, in each fiscal year an amount not greater than four percent (4%) of the receipts of the state accumulation fund shall be set aside into the expense fund or expended for the administration of the retirement system. No General Fund dollars are provided in fiscal year 1988-89 or fiscal year 1989-90 for the cost of administration.

35. ORAL HISTORY COMMISSION

1988-89 .... $ 103,400

1989-90 .... $ 110,800

36. HERITAGE COUNCIL

1988-89 .... $ 634,100

1989-90 .... $ 637,900

Included in the above appropriation is $210,000 in fiscal year 1988-89 and $211,800 in fiscal year 1989-90 for the Kentucky Main Street Program.

37. COMMISSION ON THE DEAF AND HEARING IMPAIRED

1988-89	$ 233,000
1989-90	$ 241,100

38. OFFICE OF THE SECRETARY

1988-89	$ 308,000
1989-90	$ 319,300

Included in the above appropriation is $21,600 in fiscal year 1988-89 and $22,900 in fiscal year 1989-90 for the Client Assistance Program for operations.

39. GOVERNOR'S COMMISSION ON LITERACY

1988-89	$ 811,900
1989-90	$ 815,900

40. SCHOOL FACILITIES CONSTRUCTION COMMISSION

1988-89	$ 25,727,900
1989-90	$ 32,164,600

TOTAL EDUCATION AND HUMANITIES

1987-88	$ 18,644,600
1988-89	$ 1,572,838,100
1989-90	$ 1,655,324,900

E. ENERGY

41. KENTUCKY ENERGY CABINET

a. Administration and Support

1988-89	$ 289,700
1989-90	$ 305,900

b. Department of Energy Research and Development

1988-89	$ 1,582,800
1989-90	$ 1,635,100

c. Energy Demonstration Trust Fund

1988-89	$ 200,000
1989-90	$ 100,000

Included in the above appropriation is $200,000 in fiscal year 1988-89 and $100,000 in fiscal year 1989-90 for payment to the Tennessee Valley Authority for construction of the atmospheric fluidized bed combustion (AFBC) project located at the Shawnee plant near Paducah.

d. Department of Energy Production and Utilization

1988-89	$ 544,100
1989-90	$ 570,000

TOTAL - ENERGY CABINET

1988-89	$ 2,616,600
1989-90	$ 2,611,000

F. FINANCE AND ADMINISTRATION CABINET

42. FINANCE AND ADMINISTRATION CABINET

a. General Administration

1988-89	$ 3,146,900
1989-90	$ 5,712,200

Included in the above appropriation is $180,000 in fiscal year 1988-89 and $185,000 in fiscal year 1989-90 for payment to the City of Frankfort for the provision of fire and police protection and other services for state-owned property in accordance with KRS 45.021. Also included in the above appropriation is $2,517,900 in fiscal year 1989-90 in the Office for Investment and Debt Management for debt service payments for the Kentucky Community Public Works Program.

b. Department of Administration

1988-89	$ 5,574,800
1989-90	$ 5,364,200

c. Department of Facilities Management

1988-89	$ 8,035,800
1989-90	$ 8,559,100

Included in the above appropriation is $1,134,800 in fiscal year 1988-89 and $1,516,800 in fiscal year 1989-90 which shall be used for debt service for the Capitol and Capitol Annex mechanical and electrical renovation.

TOTAL - FINANCE AND ADMINISTRATION

1988-89	$ 16,757,500
1989-90	$ 19,635,500

G. HIGHER EDUCATION

43. COUNCIL ON HIGHER EDUCATION

1988-89	$ 7,212,500
1989-90	$ 5,375,300

Included in the appropriation for fiscal year 1988-89 is $2 million for a life/safety project fund to be used for debt service on the life/safety projects at the public institutions of higher education as identified by the Council on Higher Education in consultation with the conference of university presidents. The first priority for the use of this appropriation shall be the utility tunnel project at Morehead State University. The appropriation to this fund shall not lapse at the end of fiscal year 1988-89 but shall continue into fiscal year 1989-90.

44. HIGHER EDUCATION ASSISTANCE AUTHORITY

1988-89	$ 11,801,700
1989-90	$ 11,801,700

Included in the above appropriation is $5,143,100 in fiscal year 1988-89 and $5,143,100 in fiscal year 1989-90 for Kentucky Tuition Grants. The above appropriation also includes $6,158,600 in fiscal year 1988-89 and $6,158,600 in fiscal year 1989-90 for State Student Incentive Grants.

Also included is $500,000 in fiscal year 1988-89 and $500,000 in fiscal year 1989-90 for Math and Science Scholarships.

No agency funds shall be expended for any program during the fiscal 1988-90 biennium except those expressly contained in the 1988 General Assembly Appropriation Act.

45. EASTERN KENTUCKY UNIVERSITY

1988-89	$ 44,340,700
1989-90	$ 46,312,600

Included in the above appropriation is $3,202,200 in fiscal year 1988-89 and $3,206,100 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560, except as otherwise provided in this Act.

46. KENTUCKY STATE UNIVERSITY

1988-89	$ 15,308,100
1989-90	$ 15,799,300

Included in the above appropriation is $1,602,400 in fiscal year 1988-89 and $1,603,600 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560, except as otherwise provided in this Act.

Using funding provided in the above appropriation Kentucky State University shall provide for the maintenance and operation of capital projects authorized for construction during the 1986-88 biennium.

47. MOREHEAD STATE UNIVERSITY

1988-89	$ 26,518,400
1989-90	$ 27,808,500

Included in the above appropriation is $1,712,900 in fiscal year 1988-89 and $1,710,800 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560, except as otherwise provided in this Act.

48. MURRAY STATE UNIVERSITY

1988-89	$ 33,697,800
1989-90	$ 34,970,700

Included in the above appropriation is $2,977,300 in fiscal year 1988-89 and $2,981,300 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560, except as otherwise provided in this Act.

49. NORTHERN KENTUCKY UNIVERSITY

1988-89	$ 24,944,100
1989-90	$ 25,931,600

Included in the above appropriation is $3,513,600 in fiscal year 1988-89 and $3,512,500 in fiscal year 1989-90 for debt service.

Using funding provided in the above appropriation Northern Kentucky University shall provide for the maintenance and operation of capital projects authorized for construction during the 1986-88 biennium.

50. UNIVERSITY OF KENTUCKY

1988-89	$ 233,591,500
1989-90	$ 248,733,900

Included in the above appropriation is $15,595,400 in fiscal year 1988-89 and $15,638,700 in fiscal year 1989-90 for debt service. Of the stated debt service amounts, $4,658,100 in fiscal year 1988-89 and $4,675,200 in fiscal year 1989-90 are for the Community College System.

Included in the above appropriation is an amount for the Community College System which shall not be less than $43,098,100 in fiscal year 1988-89 and $46,498,400 in fiscal year 1989-90.

Using funding provided in the above appropriation the University of Kentucky shall provide for the maintenance and operation of capital projects authorized for construction during the 1986-88 biennium.

51. UNIVERSITY OF LOUISVILLE

1988-89	$ 114,983,300
1989-90	$ 119,843,300

Included in the above appropriation is $9,949,600 in fiscal year 1988-89 and $9,944,000 in fiscal year 1989-90 for debt service. Also included in the above appropriation is $11,547,100 in fiscal year 1988-89 and $12,055,200 in fiscal year 1989-90 to fulfill the Commonwealth's contractual obligation relating to indigent care furnished by Humana Hospital-University. The appropriation related to indigent care in the first year of the biennium shall continue into the second year, for this purpose. Any unused portion of the appropriation relating to indigent care shall lapse to the credit of the General Fund at the end of fiscal year 1989-90.

Using funding provided in the above appropriation the University of Louisville shall provide for the maintenance and operation of capital projects authorized for construction during the 1986-88 biennium.

52. WESTERN KENTUCKY UNIVERSITY

1988-89	$ 42,720,100
1989-90	$ 44,987,500

Included in the above appropriation is $2,332,400 in fiscal year 1988-89 and $2,335,400 in fiscal year 1989-90 for debt service. Notwithstanding the provisions of KRS 161.550, the above appropriations include the employer match, exclusive of the 3.25 percent overmatch, which will be forwarded to the Teachers' Retirement System pursuant to the provisions of KRS 161.560, except as otherwise provided in this Act.

Using funding provided in the above appropriation Western Kentucky University shall provide for the maintenance and operation of capital projects authorized for construction during the 1986-88 biennium.

TOTAL - HIGHER EDUCATION

1988-89	$ 555,118,200
1989-90	$ 581,564,400

H. HUMAN RESOURCES

53. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1988-89	$ 32,395,700
1989-90	$ 34,988,700

The Secretary is directed to reimburse the Office of the Attorney General an amount not to exceed $150,000 each year for cost incurred in relation to the Child Support Commission as established in **HB 586**.

The Department for Social Insurance shall reimburse citizen members of the Public Assistance Appeals Board an amount not to exceed $50 per day plus travel expenses.

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Public Assistance Benefits to the needy and/or Medicaid Benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance and of the Department for Medicaid Services. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1988-89	$ 53,555,600
1989-90	$ 55,796,600

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Social Insurance. No portion of this appropriation may be used for the costs of administration.

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits, such amount, with the approval of the Governor, may be transferred from the Department for Social Insurance Benefits appropriation to the Department for Medicaid Services Benefits appropriation to avoid a projected deficit provided no reduction in services or eligibles will result from the transfer. Such transfer shall be approved by the Secretary of the Finance and Administration Cabinet after concurrence by the State Budget Director of the Governor's Office for Policy and Management. Such transfer shall be reported promptly to the Interim Joint Committee on Appropriations and Revenue. In no instance shall these excess funds be used to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates or payment levels in an existing program.

b. Department for Medicaid Services

1. Administration

1988-89	$ 9,691,000
1989-90	$ 10,002,800

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for administration of the Department, such amount, with the approval of the Governor, may be used for Medicaid Benefits and/or Public Assistance Benefits to the needy in accordance with the statutes governing the functions and activities of the Department for Medicaid Services and of the Department for Social Insurance. In no instance shall these excess funds be used, without the prior written approval of the Governor, to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates or payment levels in an existing program.

In instances where approval is given, notification shall be immediately forwarded to the Legislative Research Commission, along with the Governor's written approval and supporting documents from the Cabinet for Human Resources and the Finance and Administration Cabinet.

2. Benefits

1988-89	$ 210,771,500
1989-90	$ 227,432,200

To be used for the payment of benefits in accordance with the statutes governing the functions and activities of the Department for Medicaid Services. No portion of this appropriation may be used for the costs of administration.

If any portion of this appropriation in either fiscal year is deemed to be in excess of the necessary expenses for benefits, such amount, with the approval of the Governor, may be transferred from the Department for Medicaid Services Benefits appropriation to the Department for Social Insurance Benefits appropriation to avoid a projected deficit, provided no reduction in services or eligibles will result from the transfer. Such transfer shall be approved by the Secretary of the Finance and Administration Cabinet after concurrence by the State Budget Director of the Governor's Office for Policy and Management. Such transfer shall be reported promptly to the Interim Joint Committee on Appropriations and Revenue. In no instance shall these funds be used to:

1. Establish a new program.

2. Expand the services of an existing program.

3. Increase rates of payment levels in an existing program.

c. Department for Employment Services

1988-89	$ 12,800,000
1989-90	$ 200,000

Included in the above appropriation is $12,600,000 in fiscal year 1988-89 for training services associated with the Industrial Development Training Project. Any unexpended balance in fiscal year 1987-88 shall be continued in fiscal year 1988-89 and any unexpended balance in fiscal year 1988-89 shall be continued into fiscal year 1989-90.

d. Department for Health Services

1988-89	$ 39,507,800
1989-90	$ 39,962,500

e. Department for Mental Health/Mental Retardation Services

1988-89	$ 83,612,500
1989-90	$ 86,577,500

Included in the above appropriation is $4,193,600 in fiscal year 1988-89 and $4,193,600 in fiscal year 1989-90 for debt service.

f. Department for Social Services

1988-89	$ 83,566,700
1989-90	$ 86,869,300

Funds appropriated in each fiscal year for the Purchase of Day Care shall be equal to or greater than the FY 1987-88 Revised Budget plus an additional $500,000. Any funds not expended for Priority I (Protection) children shall be expended for Priority II (Eligible low-income working families) children.

Any unexpended General Fund appropriation occurring during the fiscal years 1987-88 and 1988-89 in the Cabinet for Human Resources shall not lapse but be carried forward into the next fiscal year. The Secretary shall use up to $750,000 of such funds in each fiscal year to increase reimbursement for private child care. The Secretary shall submit a plan to the Legislative Research Commission prior to such rate adjustment to set forth the methodology for the increase. In the event such carried forward amount exceeds $750,000 in any year, the Department for Social Services shall use such additional funds for child protection services.

g. Administration and Program Support

1988-89	$ 15,544,600
1989-90	$ 17,017,200

Included in the above appropriation is $5,044,700 in fiscal year 1988-89 and $5,683,700 in fiscal year 1989-90 for debt service.

TOTAL - HUMAN RESOURCES CABINET

1988-89	$ 541,445,400

1989-90	$ 558,846,800

54. Commission for Handicapped Children

1988-89	$ 6,799,500
1989-90	$ 6,870,800

55. Commission for Health Economics Control in Kentucky

1988-89	$ 586,400
1989-90	$ 643,000

TOTAL - HUMAN RESOURCES

1988-89	$ 548,831,300
1989-90	$ 566,360,600

I. JUSTICE

56. JUSTICE CABINET

a. Department of State Police

1988-89	$ 28,607,100
1989-90	$ 30,001,400

Included within the above appropriation is $1,004,000 in fiscal year 1988-8$1,054,000 in fiscal year 1989-90 for a salary enhancement program for troopers and sergeants within the state police sworn ranks.

Included in the above appropriation is $752,000 in fiscal year 1988-89 and in fiscal year 1989-90 for the Kentucky Early Warning System (KEWS) operation.

Included in the above appropriation is debt service of $214,900 in each fiscal year for the automated fingerprint system and $87,800 in each fiscal year for a new State Police post at Mayfield.

Also provided in the above appropriation is $2,100,000 in fiscal year 1988-89 and $1,875,000 in fiscal year 1989-90 for the purchase of approximately 325 state police vehicles. It is the intention of the General Assembly that savings which may accrue from the purchase of gasoline may be used for additional vehicle purchases.

There is hereby appropriated to the Department of State Police funds which are required as a result of the Governor's call of the Kentucky State Police to extraordinary duty; provided, however, that an emergency situation shall have been declared to exist by the Governor.

b. Justice Administration

1988-89	$ 1,614,100
1989-90	$ 1,665,400

TOTAL - JUSTICE CABINET

1988-89	$ 30,221,200
1989-90	$ 31,666,800

J. LABOR

57. LABOR CABINET

a. General Administration and Support

1988-89	$ 180,100
1989-90	$ 183,900

b. Department of Workplace Standards

1988-89	$ 1,454,400
1989-90	$ 1,504,700

TOTAL - LABOR CABINET

1988-89	$ 1,634,500
1989-90	$ 1,688,600

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

58. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1988-89	$ 6,446,900
1989-90	$ 6,636,600

Not less than $60,000 of the appropriation for each fiscal year shall be set aside from emergency forest fire suppression. Any expenditure for emergency fire suppression in excess of this amount in either fiscal year is hereby appropriated; provided, however, that the Secretary of the Finance and Administration Cabinet shall certify as to the advisability of such expenditure and the Governor shall approve such expenditure by written order.

b. Department for Environmental Protection

1988-89	$ 11,991,500
1989-90	$ 12,585,100

Included in the above appropriation is $871,600 in fiscal year 1988-89 and $1,466,300 in fiscal year 1989-90 for debt service.

Maxey Flats water management activity funds of $440,000 in fiscal year 1989 and $430,000 in fiscal year 1990 shall be reserved in a separate account for the purposes of final site decommissioning. Unexpended funds shall not lapse and will be carried forward. No monies shall be expended from the reserve account for pumping or evaporation of the water inventory at the site unless the Natural Resources Cabinet certifies to the State Budget Director, copy to the Interim Joint Committee on Appropriations and Revenue, of the extreme necessity to prevent exposure to contaminated materials.

c. Department for Surface Mining

Reclamation and Enforcement

1988-89 . . . . $ 9,287,900

1989-90 . . . . $ 9,572,400

Included in the above appropriation is $1,000,000 in each fiscal year for the return of permit and acreage fees per KRS 350.139; any required expenditure for this purpose in excess of this amount in either fiscal year is hereby appropriated to the Department.

d. General Administration and Support

1988-89 . . . . $ 2,695,900

1989-90 . . . . $ 2,841,000

TOTAL-NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

1988-89 . . . . $ 30,422,200

1989-90 . . . . $ 31,635,100

59. ENVIRONMENTAL QUALITY COMMISSION

1988-89 . . . . $ 91,300

1989-90 . . . . $ 94,000

60. KENTUCKY NATURE PRESERVES COMMISSION

1988-89 . . . . $ 245,600

1989-90 . . . . $ 275,300

TOTAL-NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

1988-89 . . . . $ 30,759,100

1989-90 . . . . $ 32,004,400

L. PUBLIC PROTECTION AND REGULATION

61. OFFICE OF THE SECRETARY

1988-89 . . . . $ 364,600

1989-90 . . . . $ 371,600

62. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1988-89 . . . . $ 1,568,700

1989-90	$ 1,626,000

63. BOARD OF CLAIMS/CRIME VICTIMS COMPENSATION BOARD

1988-89	$ 424,900
1989-90	$ 542,300

64. BOARD OF TAX APPEALS

1988-89	$ 218,600
1989-90	$ 227,700

65. DEPARTMENT OF HOUSING, BUILDINGS AND CONSTRUCTION

1988-89	$ 2,103,800
1989-90	$ 1,995,700

66. KENTUCKY STATE RACING COMMISSION

1988-89	$ 448,500
1989-90	$ 447,800

67. KENTUCKY HARNESS RACING COMMISSION

1988-89	$ 522,200
1989-90	$ 570,300

68. DEPARTMENT OF MINES AND MINERALS

1988-89	$ 7,029,800
1989-90	$ 7,267,000

69. DEPARTMENT OF PUBLIC ADVOCACY

1988-89	$ 7,861,400
1989-90	$ 8,040,700

70. PUBLIC SERVICE COMMISSION

1988-89	$ 5,012,600
1989-90	$ 5,344,600

Included in the above appropriation in fiscal year 1988-89 is a continued appropriation in the amount of $389,500.

Included in the above appropriation is $150,000 in fiscal year 1989-90 which may be used for the capital project in Part V.

71. REGISTRY OF ELECTION FINANCE

1988-89	$ 288,000
1989-90	$ 295,900

TOTAL-PUBLIC PROTECTION AND REGULATION CABINET

1988-89	$ 25,843,100
1989-90	$ 26,729,600

M. REVENUE CABINET

a. General Administration and Support

1988-89	$ 4,692,000
1989-90	$ 4,828,900

Included in the above appropriation is the funding for the Office of the Secretary, and the programs of the Department of Professional and Support Services.

b. Property Valuation Administrators

1988-89	$ 11,997,900
1989-90	$ 11,997,900

c. Department of Processing and Enforcement

1988-89	$ 25,841,300
1989-90	$ 26,110,700

The Revenue Cabinet shall implement the provisions of KRS 160.621-633 no later than December 31, 1988, within the level of funding provided by this appropriation. The Department of Information Systems shall provide technical support, computer processing time, and services at no cost to the Revenue Cabinet.

d. Department of Property Taxation

1988-89	$ 3,856,100
1989-90	$ 3,946,500

TOTAL-REVENUE CABINET

1988-89	$ 46,387,300
1989-90	$ 46,884,000

N. TOURISM

72. SECRETARY

1988-89	$ 708,300
1989-90	$ 745,400

73. BREAKS INTERSTATE PARK

1988-89	$ 175,000
1989-90	$ 200,000

For matching funds appropriated by the Commonwealth of Virginia relating to construction, maintenance, and operations at the Breaks Interstate Park. In accordance with the Breaks Interstate Compact this appropriation is contingent upon an appropriation by the Commonwealth of Virginia adequate to match this amount on an equal basis; provided, however, that appropriations to date shall be considered cumulatively, and any deficit in appropriations by this state may be removed.

74. DEPARTMENT OF TRAVEL DEVELOPMENT

1988-89	$ 5,267,700
1989-90	$ 6,023,500

75. DEPARTMENT OF PARKS

1988-89	$ 18,639,300
1989-90	$ 18,676,700

Included in the above appropriation is $998,400 in fiscal year 1988-89 and $1,205,400 in fiscal year 1989-90 for debt service for Project 45 and the projects identified in Part V.

76. KENTUCKY HORSE PARK

1988-89	$ 1,853,300
1989-90	$ 1,817,400

Included is $1,326,000 in fiscal year 1988-89 and $1,329,000 in fiscal year 1989-90 for the debt service requirement of the Project 29 Revenue Bonds.

No part of the above appropriation for operations shall be expended without specific authorization from the Secretary of the Tourism Cabinet.

77. STATE FAIR BOARD

1988-89	$ 6,610,800
1989-90	$ 8,282,300

Included in the above appropriation is at least $6,236,100 in fiscal year 1988-89 and $7,910,000 in fiscal year 1989-90 for debt service. Also included in the above appropriations is $374,700 in fiscal year 1988-89 and $372,300 in fiscal year 1989-90 for the North American International Livestock Exposition.

TOTAL-TOURISM CABINET

1988-89	$ 33,254,400

1989-90	$ 35,745,300

O. TRANSPORTATION

78. TRANSPORTATION CABINET

a. General Administration and Support

1988-89	$ 256,500
1989-90	$ 254,900

Included within the above appropriation is $15,000 in fiscal year 1988-89 and $15,000 in fiscal year 1989-90 for the U.S. 127 Corridor activity.

b. Air Transportation

1988-89	$ 1,194,500
1989-90	$ 1,214,800

Included within the above appropriation is a continuing appropriation of $681,300 in fiscal year 1988-89 and $681,300 in fiscal year 1989-90.

c. Rail Transportation

1988-89	$ 83,400
1989-90	$ 84,800

d. Public Transportation

1988-89	$ 428,600
1989-90	$ 429,600

Included within the above appropriation is a continuing appropriation of $392,800 in fiscal year 1988-89 and $392,200 in fiscal year 1989-90.

Included within the above appropriation is $10,000 in fiscal year 1988-89 and $10,000 in fiscal year 1989-90 for the operation of the Augusta Ferry in Bracken County.

TOTAL-TRANSPORTATION CABINET

1988-89	$ 1,963,000
1989-90	$ 1,984,100

TOTAL-EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1987-88	$ 21,670,600
1988-89	$ 3,180,205,800
1989-90	$ 3,331,374,000

PART II

TRUST AND AGENCY FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending June 30, 1989, and for the fiscal year ending June 30, 1990, all of the fees (which include fees for board and room athletics, and student activities) and rental, admittances, sales, bond proceeds, licenses collected by law, gifts, subventions, contributions, income from investments and other miscellaneous receipts produced or received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Trust and Revolving, or an Agency Fund out of which shall be established separate Trust and Revolving or Agency Fund accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, 45, and 48.

In the event receipts received and credited to any Trust and Revolving or Agency Fund account during fiscal year 1988-89 or fiscal year 1989-90 and any balance forwarded to the credit of any such account from the previous year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administration Cabinet; provided, however, that institutions of higher education may receive and expend all trust and agency funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Trust and Revolving or Agency Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1989, and during the fiscal year ending June 30, 1990 all receipts placed to the credit of the Trust and Revolving or Agency Fund for such year, out of which has been established a Trust and Revolving or Agency Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures, a comparative statement of any revised estimated receipts and expenditures with amounts provided in the Executive Budget as adopted by the 1988 General Assembly, and statements which explain the occurrence of such variances.

In the event a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management, the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. SECRETARY OF STATE

All operating receipts from all activities of the Office of the Secretary of State shall be deposited in the State Treasury to the credit of the General Fund.

2. BOARD OF ELECTIONS

1988-89	$ 90,000

1989-90	$ 90,000

3. TREASURY

1988-89	$ 165,000
1989-90	$ 165,000

4. DEPARTMENT OF LAW

1988-89	$ 1,142,200
1989-90	$ 1,170,600

Included in the above appropriation is $184,500 in FY 1988-89 and $189,900 in FY 1989-90 for the asbestos litigation team. The Secretary of Finance and Administration shall assess each budget unit of the state an amount based on their pro-rata share of state-owned space sufficient to fund the Asbestos Litigation Team as provided in this appropriation.

5. COUNTY ATTORNEY

1988-89	$ 500
1989-90	$ 500

6. AUDITOR OF PUBLIC ACCOUNTS

1988-89	$ 1,301,600
1989-90	$ 1,346,800

Each quarter, the Auditor of Public Accounts shall notify the Finance and Administration Cabinet concerning the collection status of the fees charged for county audits. If a county government is delinquent in its payment to the Auditor of Public Accounts, the Finance and Administration Cabinet shall withhold any monies due that county government for the term of one hundred and twenty (120) days or until the Auditor of Public Accounts has received full payment from the county. The Auditor of Public Accounts is authorized to increase the audit fees for conducting County Audits if additional revenues are needed to continue the operation of the office.

The "Single Audit Act of 1984" (OMB Circular No. A-128) will change the method by which federal monies to state agencies are audited. As a result of this federal change, the Auditor of Public Accounts is budgeted to receive additional agency receipts which shall be allotted by the Governor's Office for Policy and Management for programs authorized in the enacted budget for the Auditor of Public Accounts by the 1988 General Assembly.

7. DEPARTMENT OF MILITARY AFFAIRS

1988-89	$ 880,300
1989-90	$ 801,700

8. DEPARTMENT OF PERSONNEL

a. General Operations

1988-89	$ 268,900

1989-90 . . . . $ 68,700

b. Workers' Compensation Benefits and Reserve

1988-89 . . . . $ 8,329,100

1989-90 . . . . $ 8,545,200

The above appropriations represent estimates of the funds necessary to operate this program. In the event that additional funds are required to adequately maintain this program, it is the intent of the General Assembly that such necessary funds are hereby appropriated.

c. Public Employees Deferred Compensation System

1988-89 . . . . $ 283,700

1989-90 . . . . $ 292,100

9. DEPARTMENT OF LOCAL GOVERNMENT

1988-89 . . . . $ 867,700

1989-90 . . . . $ 760,000

10. COUNTY FEES

	1988-89	1989-90
Jefferson County	11,781,000	12,134,400
Kenton County	2,022,000	2,082,700
Campbell County	1,116,100	1,149,600
Fayette County	3,795,400	3,909,300
Daviess County	1,194,300	1,230,100
Pike County	1,347,700	1,388,100

County Fees for the following counties: Jefferson, Kenton, Fayette, Campbell, Daviess, and Pike are for paying the various officials of each county enumerated, seventy-five percent (75%) of the fees provided by law.

This is to be paid, by the State, to these officials when their claims for fees have been presented in the form and manner prescribed by law and approved by the Secretary of the Finance and Administration Cabinet. Each Fiscal Court of said counties are to receive twenty-five percent (25%) of said fees as required by KRS 64.350.

11. KENTUCKY RETIREMENT SYSTEMS

1988-89 . . . . $ 3,040,700

1989-90 . . . . $ 3,174,600

12. CAPITAL PLAZA

1988-89 . . . . $ 1,771,900

1989-90 . . . . $ 1,823,100

Included above is $1,458,400 in fiscal year 1988-89 and $1,463,200 in fiscal year 1989-90 for debt service payment of the Capital Plaza. Also included in the above appropriation is $313,500 in fiscal year 1988-89 and $359,900 in fiscal year 1989-90 for general operations.

13. OCCUPATIONAL AND PROFESSIONAL BOARDS AND COMMISSIONS

	1988-89	1989-90
a. Board of Accountancy	294,700	299,300
b. Board of Architects	83,700	85,300
c. Athletic Commission	97,500	100,000
d. Board of Auctioneers	127,000	128,900
e. Board of Barbers	114,800	116,300
f. Board of Chiropractic Examiners	47,100	48,700
g. Board of Dental Examiners	181,900	185,500
h. Board of Embalmers and Funeral Directors	102,000	103,300
i. Board of Engineers and Land Surveyors	301,700	307,700
j. Board of Hairdressers and Cosmetologists	409,800	416,900
k. Board of Hearing Aid Dealers	12,400	12,400
l. Board of Landscape Architecture	13,100	13,100
m. Board of Medical Licensure	620,700	623,100
n. Board of Nurses	959,200	979,200
o. Nursing Home Administrators Licensure Board	43,500	43,500
p. Board of Occupational Therapy	9,700	9,800
q. Board of Ophthalmic Dispensers	7,200	7,200
r. Board of Optometric Examiners	43,900	45,000
s. Board of Pharmacy	314,600	324,500
t. Board of Physical therapy	64,500	66,100
u. Board of Podiatry	3,000	3,000
v. Board of Proprietary Education	83,300	85,900
w. Board of Psychology	42,200	42,200
x. Real Estate Commission		
1. Examination and Licensing	818,100	781,700
2. Real Estate Education Research and Recovery	600,800	569,000
y. Board of Social Workers	44,500	44,500
z. Board of Speech Pathologists and Audiologists	22,700	22,700
aa. Board of Veterinary Examiners	141,200	144,400

14. GOVERNMENTAL SERVICES CENTER

1988-89	$ 881,600
1989-90	$ 904,500

15. COMMISSION ON WOMEN

1988-89	$ 1,000
1989-90	$ 2,200

16. DEPARTMENT OF AGRICULTURE

1988-89	$ 708,900
1989-90	$ 712,900

B. COMMERCE

17. OFFICE OF THE SECRETARY

1988-89	$ 194,600
1989-90	$ 195,100

18. DEPARTMENT OF ECONOMIC DEVELOPMENT

1988-89	$ 374,500
1989-90	$ 369,900

19. KENTUCKY DEVELOPMENT FINANCE AUTHORITY

1988-89	$ 503,900
1989-90	$ 514,800

20. DEPARTMENT OF THE ARTS

1988-89	$ 240,900
1989-90	$ 250,800

21. TOBACCO RESEARCH BOARD

1988-89	$ 12,900
1989-90	$ 13,300

C. CORRECTIONS

22. CORRECTIONS CABINET

1988-89	$ 9,316,600
1989-90	$ 9,295,000

D. EDUCATION AND HUMANITIES

23. DEPARTMENT OF EDUCATION

a. General Administration

1988-89	$ 2,515,000

1989-90	$ 2,547,400
b. Education for Exceptional Children	
1988-89	$ 388,500
1989-90	$ 353,300
c. Instruction	
1988-89	$ 97,700
1989-90	$ 95,300
d. Local Services	
1988-89	$ -0-
1989-90	$ -0-
e. Vocational Education	
1988-89	$ 22,923,800
1989-90	$ 23,240,300
f. Vocational Rehabilitation	
1988-89	$ 601,600
1989-90	$ 615,000
g. Administrative Services and Budget Management	
1988-89	$ 174,100
1989-90	$ 117,700
24. KENTUCKY EDUCATIONAL TELEVISION	
1988-89	$ 168,000
1989-90	$ 273,500
25. HISTORICAL SOCIETY	
1988-89	$ 380,400
1989-90	$ 349,600
26. LIBRARY AND ARCHIVES	
1988-89	$ 720,100
1989-90	$ 725,800
27. DEPARTMENT FOR THE BLIND	
1988-89	$ 1,947,900
1989-90	$ 1,960,400
28. ORAL HISTORY COMMISSION	
1988-89	$ 200

1989-90	$ -0-

29. HERITAGE COUNCIL

1988-89	$ 500
1989-90	$ 17,500

30. TEACHERS' RETIREMENT SYSTEM

1988-89	$ 2,585,500
1989-90	$ 2,663,100

E. ENERGY

31. KENTUCKY ENERGY CABINET

1988-89	$ 546,000
1989-90	$ 540,600

F. FINANCE AND ADMINISTRATION

32. FINANCE AND ADMINISTRATION CABINET

a. General Administration

1988-89	$ 583,300
1989-90	$ 610,800

Included in the above appropriation is $87,400 in FY 1988-89 and $91,400 in fiscal year 1989-90 for the operations of the Office of Internal Audit.

b. State Office for Social Security

1988-89	$ 217,100
1989-90	$ 216,500

c. Department of Administration

1988-89	$ 8,236,300
1989-90	$ 8,390,700

d. Department of Facilities Management

1988-89	$ 22,521,900
1989-90	$ 23,282,400

e. Department of Information Systems

1988-89	$ 27,112,600
1989-90	$ 27,819,700

The Department of Information Systems shall provide the Revenue Cabinet with all necessary technical support, computer processing time, and services to implement the provisions of KRS 160.621-633 at no cost to the Revenue Cabinet.

The Finance and Administration Cabinet shall be responsible for development of computer systems necessary to carry out the provisions of **HB 283**. The Cabinet's actual and necessary costs of developing such systems shall be recovered from a portion of increased revenues accruing to the General Fund under HB 283 not to exceed $500,000.

G. HIGHER EDUCATION

33. KENTUCKY HIGHER EDUCATION ASSISTANCE AUTHORITY

1988-89	$ 6,795,400
1989-90	$ 6,956,600

Included in the above appropriation is $1,000,000 in fiscal year 1988-89 and $1,000,000 in fiscal year 1989-90 for Teachers' Scholarships. Also included is $50,000 in fiscal year 1988 and 1989 and fiscal year 1989-90 for Math/Science Scholarships.

Also included is $1,000,000 in fiscal year 1988-89 and $1,000,000 in fiscal year 1989-90 for the Kentucky Tuition Grant Program.

34. EASTERN KENTUCKY UNIVERSITY

1988-89	$ 38,989,600
1989-90	$ 39,737,800

35. KENTUCKY STATE UNIVERSITY

1988-89	$ 6,245,200
1989-90	$ 6,490,300

36. MOREHEAD STATE UNIVERSITY

1988-89	$ 20,782,500
1989-90	$ 21,917,400

37. MURRAY STATE UNIVERSITY

1988-89	$ 25,629,900
1989-90	$ 27,206,500

38. NORTHERN KENTUCKY UNIVERSITY

1988-89	$ 17,639,400
1989-90	$ 17,924,100

39. UNIVERSITY OF KENTUCKY

1988-89	$ 285,703,900
1989-90	$ 295,915,200

40. UNIVERSITY OF LOUISVILLE

1988-89	$ 110,097,300
1989-90	$ 111,986,400

41. WESTERN KENTUCKY UNIVERSITY

1988-89	$ 34,084,700
1989-90	$ 37,073,500

H. HUMAN RESOURCES

42. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1988-89	$ 10,948,900
1989-90	$ 11,437,100

2. Benefits

1988-89	$ 6,182,000
1989-90	$ 5,984,000

b. Department for Medicaid Services

1. Benefits

1988-89	$ 2,500,000
1989-90	$ 2,500,000

c. Department for Employment Services

1988-89	$ 7,831,300
1989-90	$ 7,363,200

d. Department for Health Services

1988-89	$ 8,253,300
1989-90	$ 8,391,600

e. Department for Mental Health/Mental Retardation

1988-89	$ 43,613,800
1989-90	$ 44,967,500

f. Department for Social Services

1988-89	$ 2,088,300
1989-90	$ 2,047,500

g. Administration and Program Support

1988-89	$ 6,364,600
1989-90	$ 6,315,900

Notwithstanding other provisions to the contrary, the Secretary is directed to promulgate such administrative regulations as may be required to prescribe user fee amounts which are provided in the applicable agency fund appropriations.

h. Commission for Handicapped Children

1988-89	$ 664,100
1989-90	$ 684,100

i. Commission for Health Economics in Kentucky

1988-89	$ 149,100
1989-90	$ 120,000

I. JUSTICE

43. JUSTICE CABINET

a. Criminal Justice Training

1988-89	$ 10,820,300
1989-90	$ 11,008,600

Under the provisions of the Kentucky Law Enforcement Foundation Program Fund, an eligible local unit of government shall be entitled to receive a supplement to each qualified police officer's annual base salary from the Law Enforcement Foundation Program Fund, to be paid to each officer in addition to his regular salary as prescribed by KRS 15.460 and KRS 15.500. Included in the above appropriation is $8,300,000 in fiscal year 1988-89 and $8,400,000 in fiscal year 1989-90 for training incentive payments pursuant to KRS 15.430, from receipts pursuant to KRS 136.392. It is the intent of the 1988 General Assembly that in the event funds appropriated from the Kentucky Law Enforcement Foundation Program Fund (KLEFPF) for training incentive payments are not sufficient to ensure each participant a training incentive payment which is at least $2,500, the General Assembly hereby directs that any amounts available to KLEFPF be utilized to ensure such payment.

Also included in the above appropriation is $2,520,300 in fiscal year 1989 and $2,608,600 in fiscal year 1990 for the cost of operating the Department of Criminal Justice Training, for the operation of the Kentucky Law Enforcement Council Program and the administration of the Kentucky Law Enforcement Foundation Program Fund. Any provisions to the contrary codified in KRS 15.430-510 or KRS 42.190 are hereby suspended.

b. Department of State Police

1988-89	$ 1,628,400
1989-90	$ 1,677,200

c. Justice Administration

1988-89	$ 1,027,400
1989-90	$ 960,900

J. LABOR

44. LABOR CABINET

a. General Administration and Support

1988-89	$ 3,848,800
1989-90	$ 3,958,000

b. Department of Workplace Standards

1988-89	$ 76,809,900
1989-90	$ 79,012,800

c. Department of Workers' Claims

1987-88	$ 402,000
1988-89	$ 5,407,000

1989-90	$ 5,050,500

K. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

45. NATURAL RESOURCES AND ENVIRONMENTAL ROTECTION CABINET

a. Department for Natural Resources

1988-89	$ 7,360,800
1989-90	$ 7,566,200

b. Department for Environmental Protection

1988-89	$ 1,275,900
1989-90	$ 1,632,300

c. Department for Surface Mining Reclamation and Enforcement

1988-89	$ 156,900
1989-90	$ 160,800

d. General Administration and Support

1988-89	$ 80,900
1989-90	$ 16,600

46. KENTUCKY NATURE PRESERVES COMMISSION

1988-89	$ 150,000
1989-90	$ 150,000

L. PUBLIC PROTECTION AND REGULATION

47. DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

1988-89	$ 3,500
1989-90	$ 3,500

48. DEPARTMENT OF FINANCIAL INSTITUTIONS

1988-89	$ 3,247,600
1989-90	$ 3,351,600

49. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

1988-89	$ 755,600
1989-90	$ 656,500

50. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1988-89	$ 12,474,400
1989-90	$ 12,797,300

51. DEPARTMENT OF INSURANCE

1988-89	$ 4,940,000

1989-90 .... $ 5,018,900

52. KENTUCKY STATE RACING COMMISSION

1988-89 .... $ 4,209,000

1989-90 .... $ 4,313,900

Included in the above appropriation is $511,600 in fiscal year 1988-89 and $553,300 in fiscal year 1989-90 for the Backside Improvement Commission.

53. KENTUCKY HARNESS RACING COMMISSION

1988-89 .... $ 1,298,900

1989-90 .... $ 1,332,900

54. DEPARTMENT OF MINES AND MINERALS

1988-89 .... $ 647,800

1989-90 .... $ 647,800

55. DEPARTMENT OF PUBLIC ADVOCACY

1988-89 .... $ 205,000

1989-90 .... $ 210,000

56. PUBLIC SERVICE COMMISSION

1988-89 .... $ 57,000

1989-90 .... $ 37,000

M. REVENUE

57. REVENUE CABINET

a. General Administration and Support

1988-89 .... $ 20,000

1989-90 .... $ 20,000

General Administration and Support is comprised of the Office of the Secretary and the Department of Professional and Support Services.

b. Property Valuation Administrators

1988-89 .... $ 1,868,300

1989-90 .... $ 2,564,400

c. Department of Processing and Enforcement

1988-89 .... $ 614,900

1989-90 .... $ 633,300

d. Department of Property Taxation

1988-89 .... $ 966,100

1989-90 .... $ 1,039,900

58. KENTUCKY WORKERS' COMPENSATION FUNDING COMMISSION

1987-88	$ 49,224,400
1988-89	$ 85,989,700
1989-90	$ 91,018,700

N. TOURISM

59. DEPARTMENT OF PARKS

1988-89	$ 31,023,600
1989-90	$ 32,195,800

Included in the above appropriation is $727,000 in fiscal year 1988-89 and $829,000 in fiscal year 1989-90 for the debt service on revenue bonds issued for Project 14 and Project 16 issued in 1965 and 1967, respectively.

60. KENTUCKY HORSE PARK

1988-89	$ 3,226,100
1989-90	$ 3,333,100

61. KENTUCKY STATE FAIR BOARD

1988-89	$ 14,811,500
1989-90	$ 15,080,500

62. FISH AND WILDLIFE RESOURCES

1988-89	$ 14,862,200
1989-90	$ 15,327,700

O. TRANSPORTATION

63. TRANSPORTATION CABINET

a. Air Transportation

1988-89	$ 219,800
1989-90	$ 219,800

b. Public Transportation

1988-89	$ 369,100
1989-90	$ 370,700

c. Vehicle Regulation

1988-89	$ 530,500
1989-90	$ 546,400

PART III

FEDERAL FUNDS

There is appropriated to the various officers, cabinets, departments, boards, commissions, institutions, subdivisions, and other agencies of the State Government only as are listed herein for the fiscal year ending

June 30, 1989, and for the fiscal year ending June 30, 1990, Federal subventions, grants, contracts and other Federal Funds received, income from investments and other miscellaneous Federal receipts received by any of the following agencies of the State Government, except as otherwise specifically provided, for the use and benefit of each of the below-named agencies of the State Government for the purposes for which each fund is authorized. Receipts which are received by each of the respective agencies of the State Government listed herein shall be placed to the credit of a Federal Fund out of which shall be established separate accounts for the use and benefit of these agencies of the State Government for purposes for which each fund is authorized. All Funds received shall be deposited in the State Treasury and credited to the proper account as provided by KRS Chapters 12, 42, 45, and 48.

If receipts received and credited to any Federal Fund account during fiscal year 1988-89 or fiscal year 1989-90, and any balance forwarded to the credit of any such account from the previous fiscal year, exceed, by the sum of five percent (5%), the appropriation made by specific sum to said account for the fiscal year in which the excess occurs, said excess shall become available for expenditure for the purpose of the account during said year only with the authorization of the State Budget Director of the Governor's Office for Policy and Management upon approval of the Secretary of the Finance and Administration Cabinet; provided, however, that institutions of higher education may receive and expend all Federal Funds without limitation.

Except as herein otherwise provided, the appropriate agency may requisition for expenditure from the Federal Fund account, through the Finance and Administration Cabinet, during the fiscal year ending June 30, 1989, and during the fiscal year June 30, 1990, all receipts placed to the credit of the Federal Fund for such year, out of which has been established a Federal Fund account for each separate agency during such fiscal year, in addition to any balance which said agency may have had forwarded from the preceding year on or before August 31, of the then current fiscal year, by the Finance and Administration Cabinet. On or before the beginning of each fiscal year, each agency, other than institutions of higher education, shall submit to the Finance and Administration Cabinet and the Legislative Research Commission schedules for each budget unit showing estimated receipts and estimated expenditures for the ensuing fiscal year, a comparison of any revised estimates with the amounts provided in the Executive Budget as adopted by the 1988 General Assembly, and statements which explain the occurrence of such variances.

If a budget unit not listed herein receives unanticipated monies, the Secretary of the Finance and Administration Cabinet, upon written request from the agency head with appropriate documentation of the amount, source, purpose, necessity and use of such monies, may authorize, upon recommendation of the Governor's Office for Policy and Management the credit and expenditure of such funds for statutory purposes. The Secretary of the Finance and Administration Cabinet shall cause to be established a restricted account for the receipt and disbursement of such funds and shall establish the maximum sum which may be credited and expended from the authorized account. The Secretary of the Finance and Administration Cabinet, in consultation with the Interim Joint Committee on Appropriations and Revenue, shall provide appropriate notice pursuant to this event to the Legislative Research Commission.

No state agency which shall be entitled to receive federal funds which would represent one hundred percent (100%) of the cost of a program in which the state participates shall decline to accept or receive such entitlement without notification to the Interim Joint Committee on Appropriations and Revenue of the Legislative Research Commission.

A. GOVERNMENT OPERATIONS

1. DEPARTMENT OF LAW

1988-89	$ 1,355,900
1989-90	$ 1,369,900

2. COMMONWEALTH'S ATTORNEY

1988-89	$ 1,000
1989-90	$ 2,000

3. DEPARTMENT OF AGRICULTURE

1988-89	$ 1,798,100
1989-90	$ 1,389,400

4. DEPARTMENT OF MILITARY AFFAIRS

1988-89	$ 3,081,900
1989-90	$ 3,175,300

5. DEPARTMENT OF LOCAL GOVERNMENT

1988-89	$ 26,098,100
1989-90	$ 25,558,100

6. DEPARTMENT OF PERSONNEL

1988-89	$ 724,600
1989-90	$ 691,300

7. HUMAN RIGHTS COMMISSION

1988-89	$ 57,300
1989-90	$ 31,700

B. COMMERCE

8. OFFICE OF THE SECRETARY

1988-89	$ 163,200

9. DEPARTMENT OF THE ARTS

1988-89	$ 640,900
1989-90	$ 643,200

C. CORRECTIONS

10. CORRECTIONS CABINET

1988-89	$ 320,300
1989-90	$ 320,300

D. EDUCATION AND HUMANITIES

11. DEPARTMENT OF EDUCATION

a. General Administration

1988-89	$ 90,400,900
1989-90	$ 90,379,500

b. Education for Exceptional Children

1988-89	$ 28,218,300
1989-90	$ 25,623,400

c. Instruction

1988-89	$ 83,990,300
1989-90	$ 85,635,000

d. Vocational Education

1988-89	$ 20,324,800
1989-90	$ 20,609,400

e. Vocational Rehabilitation

1988-89	$ 23,626,000
1989-90	$ 23,983,700

f. Administrative Services and Budget Management

1988-89	$ 647,100
1989-90	$ 1,424,300

12. OFFICE OF THE SECRETARY

1988-89	$ 100,700

1989-90 $ 103,700

13. LIBRARIES AND ARCHIVES

1988-89	$ 2,260,000
1989-90	$ 1,906,000

14. KENTUCKY EDUCATIONAL TELEVISION

1988-89	$ 18,000
1989-90	$ 18,000

15. DEPARTMENT FOR THE BLIND

1988-89	$ 4,180,400
1989-90	$ 4,207,300

16. GOVERNOR'S COUNCIL ON VOCATIONAL EDUCATION

1988-89	$ 129,300
1989-90	$ 134,000

17. HERITAGE COUNCIL

1988-89	$ 540,100
1989-90	$ 542,500

E. ENERGY

18. KENTUCKY ENERGY CABINET

1988-89	$ 450,800
1989-90	$ 378,700

F. HIGHER EDUCATION

19. HIGHER EDUCATION ASSISTANCE AUTHORITY

1988-89	$ 1,179,000
1989-90	$ 1,179,000
20. COUNCIL ON HIGHER EDUCATION	
1988-89	$ 350,000
1989-90	$ 350,000
21. EASTERN KENTUCKY UNIVERSITY	
1988-89	$ 7,611,800
1989-90	$ 7,671,100
22. KENTUCKY STATE UNIVERSITY	
1988-89	$ 6,247,600
1989-90	$ 6,451,900
23. MOREHEAD STATE UNIVERSITY	
1988-89	$ 3,622,100
1989-90	$ 3,622,100
24. MURRAY STATE UNIVERSITY	
1988-89	$ 4,174,100
1989-90	$ 4,174,100
25. NORTHERN KENTUCKY UNIVERSITY	
1988-89	$ 1,665,900
1989-90	$ 1,665,900
26. UNIVERSITY OF KENTUCKY	
1988-89	$ 48,946,200
1989-90	$ 50,981,200
27. UNIVERSITY OF LOUISVILLE	
1988-89	$ 13,232,300
1989-90	$ 13,232,300
28. WESTERN KENTUCKY UNIVERSITY	
1988-89	$ 5,281,900
1989-90	$ 5,281,900

G. HUMAN RESOURCES

29. CABINET FOR HUMAN RESOURCES

a. Department for Social Insurance

1. Administration

1988-89	$ 55,295,400
1989-90	$ 52,831,000
2. Benefits	
1988-89	$ 139,455,200
1989-90	$ 145,887,000
b. Department for Medicaid Services	
1. Administration	
1988-89	$ 15,859,500
1989-90	$ 15,871,200
2. Benefits	
1988-89	$ 568,186,100
1989-90	$ 627,456,600
c. Department for Employment Services	
1. Administration - Unemployment Insurance	
1988-89	$ 16,829,800
1989-90	$ 17,596,700
2. Benefits - Unemployment	
1988-89	$ 156,600,000
1989-90	$ 162,300,000
3. Employment Services	
1988-89	$ 79,956,500
1989-90	$ 82,753,500
d. Department for Health Services	
1988-89	$ 69,439,500
1989-90	$ 70,831,900
e. Department for Mental Health/Mental Retardation Services	
1988-89	$ 10,964,300
1989-90	$ 11,279,600
f. Department for Social Services	
1988-89	$ 74,414,500
1989-90	$ 74,028,800
g. Administration and Program Support	
1988-89	$ 14,462,500

1989-90 .... $ 14,486,000

h. Commission for Handicapped Children

1988-89 .... $ 3,237,800

1989-90 .... $ 3,237,800

H. JUSTICE

30. JUSTICE CABINET

a. Justice Administration

1988-89 .... $ 4,377,500

1989-90 .... $ 3,471,500

b. Department of State Police

1988-89 .... $ 4,940,500

1989-90 .... $ 4,688,500

I. LABOR

31. LABOR CABINET

a. Department of Workplace Standards

1988-89 .... $ 4,055,500

1989-90 .... $ 4,133,100

b. Kentucky Occupational Safety and Health Review Commission

1988-89 .... $ 316,000

1989-90 .... $ 323,800

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

32. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION CABINET

a. Department for Natural Resources

1988-89 .... $ 4,669,300

1989-90 .... $ 4,596,500

b. Department for Environmental Protection

1988-89 .... $ 6,707,700

1989-90 .... $ 6,852,400

c. Department for Surface Mining Reclamation and Enforcement

1988-89 .... $ 12,372,600

1989-90 .... $ 12,274,600

d. General Administration and Support

1988-89 .... $ 1,797,000

1989-90 .... $ 1,839,000

e. Kentucky Nature Preserves Commission

1988-89 .... $ 41,600

1989-90 .... $ 37,700

K. PUBLIC PROTECTION AND REGULATION

33. DEPARTMENT OF MINES AND MINERALS

1988-89 .... $ 530,000

1989-90 .... $ 530,000

34. DEPARTMENT OF PUBLIC ADVOCACY

1988-89 .... $ 463,400

1989-90 .... $ 460,100

35. PUBLIC SERVICE COMMISSION

1988-89 .... $ 157,100

1989-90 .... $ 162,800

36. DEPARTMENT OF INSURANCE

1988-89 .... $ 241,600

1989-90 .... $ 276,700

37. BOARD OF CLAIMS/CRIME VICTIMS' COMPENSATION

1988-89 .... $ 300,000

1989-90 .... $ 300,000

38. DEPARTMENT OF HOUSING, BUILDINGS, AND CONSTRUCTION

1988-89 .... $ 10,300

1989-90 .... $ 10,600

L. TRANSPORTATION

39. TRANSPORTATION CABINET

a. Air Transportation

1988-89 .... $ 12,700

1989-90 .... $ 13,000

b. Rail Transportation

1988-89 .... $ 50,000

1989-90 .... $ 50,000

c. Public Transportation

1988-89 .... $ 2,500,000

1989-90 .... $ 2,500,000

d. Vehicle Regulation

1988-89 .... $ 1,089,100

1989-90 .... $ 1,121,800

e. Highways

1988-89 .... $ 216,378,000

1989-90 .... $ 229,394,700

If federal receipts due to the Commonwealth are in excess of the above appropriations, such funds are hereby appropriated.

PART IV

ROAD FUND

KRS 48.010(13)(g) provides that the Road Fund shall consist of money derived from excise or license taxation relating to gasoline and other motor fuels, and monies derived from fees, excise or license taxation relating to registration, operation or use of vehicles for use on public highways.

The following monies are appropriated from the Road Fund:

A. JUSTICE

1. JUSTICE CABINET

a. Department of State Police

1988-89 .... $ 35,000,000

1989-90 .... $ 35,000,000

It is the intent of the General Assembly that the above appropriations be expended solely for the enforcement of state traffic and motor vehicle laws.

B. TRANSPORTATION

2. TRANSPORTATION CABINET

a. General Administration and Support

1988-89 .... $ 45,453,000

1989-90 .... $ 47,223,000

b. Vehicle Regulation

1988-89 .... $ 13,901,600

1989-90 .... $ 14,346,000

c. Highways

1988-89 .... $ 502,331,500

1989-90 .... $ 526,471,000

1. Included within the above appropriation is $27,484,300 in fiscal year 1988-89 and $30,746,100 in fiscal year 1989-90 for State Construction projects. The Secretary of Transportation may use State Construction appropriations for emergencies which occur on county roads, e.g., bridge failures, severe snow and ice, slips

and slides.

2. Included within the above appropriation is $18,445,400 in fiscal year 1988-89 and $24,200,900 in fiscal year 1989-90 for State Resurfacing projects.

3. Included within the above appropriation is $31,804,500 in fiscal year 1988-89 and $31,954,900 in fiscal year 1989-90 for Toll Road lease rental payments.

The General Assembly hereby directs the Finance and Administration Cabinet to use the amount necessary from the balance of the Debt Payment Acceleration Account Fund to retire the bonds on the Bluegrass Parkway. This retirement shall be done in fiscal year 1988-89 and prior to the date of the first lease-rental payment due on said bonds.

4. Included within the above appropriation is $18,335,700 in fiscal year 1988-89 and $18,359,900 in fiscal year 1989-90 for debt service on general obligation highway bonds.

5. Included within the above appropriation is $42,765,100 in fiscal year 1988-89 and $42,761,300 in fiscal year 1989-90 for Resource Recovery Road lease rental payments. It is the intent of the General Assembly that the Secretary of Transportation shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Transportation Cabinet, pursuant to KRS 143.090. However, in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required to meet the obligation shall be transferred from the proceeds of the tax levied on the severance or processing of coal by KRS 143.020.

6. Included within the above appropriation is $35,208,200 in fiscal year 1988-89 and $35,206,500 in fiscal year 1989-90 for Economic Development Road lease rental payments.

7. Included within the above appropriation is $57,544,700 in fiscal year 1988-89 and $58,836,700 in fiscal year 1989-90 for the County Road Aid program.

8. Included within the above appropriation is $69,818,000 in fiscal year 1988-89 and $71,385,400 in fiscal year 1989-90 for the Rural Secondary program.

Notwithstanding KRS 177.320, $600,000 in fiscal year 1988-89 and $600,000 in fiscal year 1989-90 is appropriated from the Rural Secondary program's appropriation to create a funding program where local governments who engage in construction-related projects jointly shall be eligible to receive from this appropriation, up to 50 percent of the costs incurred on approved projects.

9. Included within the above appropriation is $24,211,800 in fiscal year 1988-89 and $24,755,400 in fiscal year 1989-90 for the Municipal Aid program.

10. Included within the above appropriation is $900,000 in fiscal year 1988-89 and $900,000 in fiscal year 1989-90 for the Energy Recovery Road Fund.

11. Included in the above appropriation is $190,000 in fiscal year 1988-89 and $190,000 in fiscal year 1989-90 for the Kentucky Transportation Center.

12. Included within the above appropriation is $11,100,000 in fiscal year 1988-89 and $11,300,000 in fiscal year 1989-90 for the Debt Payment Acceleration Fund Account, to accelerate the payment of debt service including principal and interest, over and above the annual debt service payments appropriated for each fiscal year, for all bonds issued and any refinancing thereof by the Kentucky Turnpike Authority.

It is the intent of the General Assembly that any unexpended balance remaining at the close of the 1987-88 fiscal year in the Snow and Ice Removal Reserve Fund, as established by the 1986 General Assembly, shall be appropriated in fiscal year 1988-89 for the same purpose. The appropriation to this Reserve Fund shall be deposited in an interest bearing account and all interest income shall accrue back to this Reserve Fund.

No funds shall be expended from the Snow and Ice Removal Reserve Fund until the Transportation Cabinet's cumulative snow and ice removal expenditures, in any fiscal year of the 1988-90 biennium exceed $6,700,000. In the event that the provision is implemented, the Transportation Cabinet shall certify to the Appropriations and Revenue Committee and the Transportation Committee the documented need and usage of this fund.

Any unexpended balance remaining in the Snow and Ice Removal Reserve Fund at the close of the 1988-

89 fiscal year shall not lapse, but shall continue into fiscal year 1989-90.

TOTAL - EXECUTIVE DEPARTMENT OF STATE GOVERNMENT

1988-89	$ 596,686,100
1989-90	$ 623,040,000

Included in the above amounts are $853,700 in fiscal year 1988-89 and $1,291,100 in fiscal year 1989-90 for capital projects directly funded in Part V of this Act.

ROAD FUND SURPLUS EXPENDITURE PLAN

Notwithstanding the provisions of KRS 48.140, there is hereby established a plan for the expenditure of Road Fund tax receipts in excess of the tax receipts estimate for the Road Fund as set by the total Executive Department of State Government Road Fund appropriations. This Road Fund surplus expenditure plan which is set forth in the House Recommendations for Transportation provides for additional moneys for expenditures for which an appropriation was not made in this Appropriation Act up to $80,000,000 in each year of the 1988-90 Biennium.

Pursuant to KRS 48.140 there is hereby established a plan for the expenditure of Road Fund tax receipts up to two and one-half percent of the tax receipt estimate for the Road Fund as determined by subsection (3) of KRS 48.120 for fiscal year 1988-89 and as determined by the fiscal year 1988-89 Total Executive Department of State Government Road Fund Appropriations plus the $80,000,000 previously mentioned, for fiscal year 1989-90.

Whereas Road Fund tax receipts are appropriated for the operation, maintenance, and support of the Transportation Cabinet based on detailed estimates in the amount of $633,970,000 in fiscal year 1987-88 and $676,686,100 in fiscal year 1988-89, therefore the General Assembly does hereby authorize the expenditure of excess receipts up to a maximum of $15,849,300 in fiscal year 1988-89 and $16,917,200 in fiscal year 1989-90 as provided in this Road Fund surplus expenditure plan.

The Secretary of the Finance and Administration Cabinet shall determine, after the close of fiscal year 1987-88 and fiscal year 1988-89, based on the official financial records of the Commonwealth, and in accordance with KRS 48.120 and this surplus expenditure plan, the amount of excess Road Fund tax receipts available shall be determined after all allocations required by statutory Road Fund revenue sharing programs have been adjusted pursuant to the applicable statutes. The Secretary of the Finance and Administration Cabinet shall communicate this information to the Secretary of Transportation in a timely manner.

The Secretary of Transportation is hereby authorized to expend these excess tax receipts, up to the amount reported by the Secretary of the Finance and Administration Cabinet, for the purposes stated herein: Forty percent (40%) of the available receipts shall be used for non-recurring state resurfacing projects and thirty-five percent (35%) of the available receipts shall be used for non-recurring maintenance projects. Fifteen percent (15%) of the available receipts shall be used for non-recurring state construction projects and ten percent (10%) of the available receipts shall be used for any other non-recurring highway related activity as deemed necessary by the Secretary of the Transportation Cabinet.

ROAD FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is hereby established a Road Fund Budget Reduction Plan for fiscal year 1986-87 and fiscal year 1987-88.

In the event of an actual or estimated deficit in Road Fund receipts of $633,970,000 in fiscal year 1988-89 and $596,686,100 in fiscal year 1989-90, the Governor shall implement sufficient reductions as described below: Such reductions shall be taken in the reverse priority of the Road Fund Surplus Expenditure Plan.

PART V

CAPITAL CONSTRUCTION FUND

Monies in the Capital Construction Fund are appropriated for the following capital projects. Items listed without appropriated amounts are previously authorized for which no additional amount is required. These items are listed in order to continue their current authorization into the 1988-90 biennium:

A. COMMERCE

	1988-89	1989-90
1. Office of the Secretary		
a. Economic Development Projects		
Bond Fund	7,000,000	23,000,000
b. Covington Riverside Parking Structure		
Bond Fund	6,500,000	
c. Owensboro/Green River Steel		
Bond Fund	3,000,000	
d. Owensboro/Daviess County Downtown Development Project		
Bond Fund	4,500,000	
e. Bluegrass Airport		
Bond Fund	2,000,000	

B. CORRECTIONS

	1988-89	1989-90
1. Morgan County Facility - Expansion of Medium Security Institution		
Bond Fund	27,979,200	
2. Kentucky State Reformatory - Construction of Dormitory 13/Demolition of Dormitory 3		
Bond Fund		3,475,600
3. Kentucky Correctional Institution for Women - Facility Upgrade		
Bond Fund (1987-88 $2,362,100)		
4. Conversion of Existing Facility to a Medium Security Correctional Facility		
Bond Fund		8,130,000
5. Roederer Farm Center - Conversion of Existing Facility to a Medium Security Facility		
Bond Fund	953,600	
6. Roederer Farm Center - New Minimum Security Unit		
Bond Fund	4,275,200	
7. Miscellaneous Maintenance Projects		
Investment Income	500,000	500,000
8. Kentucky State Reformatory - Construction of Dormitory 12		
9. Kentucky State Penitentiary - Sewage and Water Plant Upgrade		
10. Blackburn Correctional Complex - Electrical System Upgrade		
11. Northpoint Training Center - Electrical Distribution System Replacement		
12. Luther Luckett Correctional Complex - 6 Double wide Trailers		

General Fund		222,000

C. EDUCATION AND HUMANITIES

1. Department of Education		
Bowling Green Advanced Technology Center		
Bond Funds	2,313,700	
2. School Facilities Construction Commission		
a. School Facilities Construction Commission		
Bond Fund	32,000,000	83,000,000

The intent of the General Assembly is not to limit bonds to be sold by the School Facilities Construction Commission beyond the limitations of KRS 157.611 - 157.640.

D. ENERGY

1. Administration Building Transformer Replacement		
General Fund	130,000	
2. Micronizer/Pulverizer		
General Fund		65,000
3. Advanced Coal Combuster		
General Fund		140,000
4. Laser Doppler Velocimeter		
General Fund		90,000
5. Instrumentation and Control System		
Federal Fund		70,000
6. Pressurized TGA/DSC		
Federal Fund		125,000
7. Ventilation System		
General Fund		

E. FINANCE AND ADMINISTRATION

1. Department for Facilities Management		
a. Emergency Repair, Maintenance and Replacement Fund		
Investment Income	2,650,000	4,050,000
b. Capital Construction and Equipment Purchase Contingency Fund		
Investment Income	1,150,000	1,150,000
c. Capitol and Capitol Annex Mechanical Renovation		
Bond Fund		3,000,000

d. Kentucky Community Public Works Program		
Bond Fund		20,000,000
e. Miscellaneous Projects		
Investment Income	500,000	500,000

2. Department of Information Systems

For the major equipment purchases displayed in this section as agency fund supported projects, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

a. Processor Upgrade		
Agency Fund	2,000,000	
b. Processor Upgrade		
Agency Fund	6,000,000	
c. 9 Disk Drives @ $125,000 each		
Agency Fund	625,000	500,000
d. 2 Disk Storage/Control Devices @ $150,000 each		
Agency Fund	300,000	
e. 9 Disk Drives @ $75,000 each		
Agency Fund	450,000	225,000
f. 2 Cache Disk Controllers @ $325,000 each		
Agency Fund	650,000	
g. Telecommunication Controller		
Agency Fund	225,000	
h. Processor Replacement		
Agency Fund		7,750,000
i. 2 Magnetic Tape Controllers @ $96,000 each		
Agency Fund		192,000
j. 8 Magnetic Tape Drives @ $56,000 each		
Agency Fund		448,000
k. 2 Cache Disk Controller Upgrades @ $120,000 each		
Agency Fund	240,000	
l. Laser Printer Upgrade		
Agency Fund	100,000	
m. Microfiche Processor		
Agency Fund	150,000	

F. GOVERNMENT OPERATIONS

1. Department of Agriculture		
a. Infra-red Spectrometer Mobil Unit		
General Fund	160,000	80,000
2. Department of Military Affairs		
a. Major Maintenance and Repairs		
Investment Income	750,000	750,000
Federal Fund	882,000	318,600
TOTAL	1,632,000	1,068,600
b. Helicopter Repair/Replacement Components		
Investment Income	350,000	50,000
c. Communications System		
General Fund	446,700	
Federal Fund	498,000	
Total	944,700	
d. Army Aviation Support Facility Addition		
General Fund	1,630,200	
Federal Fund	12,357,400	
TOTAL	13,987,600	
e. Veterans Nursing Home		
General Fund (FY 1987-88 $2,353,500)		
Bond Fund	2,400,000	
Federal Fund	8,742,800	
TOTAL	11,142,800	

The fiscal year 1987-88 appropriation of $2,353,500 shall be segregated and specifically dedicated to project at the Wilmore site, not subject to budget reduction, nor will the appropriation lapse at the end of any fiscal year, but will continue.

3. Secretary of State Computer Upgrade		
General Fund	48,900	48,900
4. State Board of Elections Computer Upgrade		
General Fund	41,100	41,100

G. HIGHER EDUCATION

For the major equipment purchases and capital construction projects displayed in this section as agency fund supported projects, it is anticipated that the funds shall be transferred from the operating fund of each university at such time as funds are available and needed. It is further authorized that an institution may at its discretion fund its Life/Safety Project(s) as recommended by the Council on Higher Education and the Executive budget using agency funds or bond funds supported by agency fund debt service instead of bond funds supported by the Life/Safety Project Fund. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Eastern Kentucky University		
a. PCB Control		
Bond Fund	2,000,000	
(Debt Service supported by Life/Safety Project Fund)		
b. Roark Building Improvements		
Agency Fund	3,500,000	
c. University Building Improvements		
Agency Fund	365,000	
d. Memorial Science Phase II		
Agency Fund (FY 1987-88, $500,000)		
e. Minor Projects		
Agency Fund	3,000,000	3,000,000
f. Energy Management System		
Agency Fund		
g. Pedestrian Overpass		
Agency Fund		
h. Property Acquisition		
Agency Fund		
2. Kentucky State University		
a. Student Center Fire Protection		
Bond Fund	100,000	
(Debt Service supported by Life/Safety Project Fund)		
b. Hathaway Hall Masonry Repairs		
Agency Fund	125,000	
c. Carroll Academic Services Building - Concrete Repairs		
Agency Fund	125,000	
d. Carroll Academic Services Building Water Damage Repairs		
Agency Fund	100,000	
e. Jordon Heating Plant System Renovation		

Agency Fund	200,000	
f. Bradford Hall HVAC Renovation		
Agency Fund	1,596,000	
g. Roads/Walkways/Landscaping		
Agency Fund (1987-88—400,000)		
h. Library Furnishings		
Agency Fund (1987-88—500,000)		
i. Cooperative Extension Program Facility		
Federal Funds	2,485,000	
3. Morehead State University		
a. Utility and Electrical Distribution System Renovation, Phase I		
Bond Fund	4,989,000	
(Debt Service Supported by Life/Safety Project Fund)		
b. Fire Safety Projects		
Bond Fund	192,000	
(Debt Service Supported by Life/Safety Project Fund)		
c. Asbestos Abatement		
Bond Fund	486,000	
(Debt Service Supported by Life/Safety Project Fund)		
d. Roof Repairs/Replacement		
Agency Fund	464,000	464,000
e. Button Auditorium Exterior Repair		
Agency Fund	270,000	
f. Elevator Repairs		
Agency Fund	138,000	
g. HVAC Repairs/Replacement		
Agency Fund	1,535,000	1,535,000
h. Handicapped Accessibility		
Agency Fund	285,000	285,000
i. Fields Hall Renovation		
Bond Fund		3,080,000
(Debt service supported by agency funds)		

j. Thompson Hall Renovation		
Bond Fund	3,080,000	
(Debt service supported by agency funds)		
k. Lappin Hall Renovation		
Agency Fund		3,920,000
l. Warehouse Facility Phase I and II		
Agency Fund	500,000	200,000
m. Wetherby Gymnasium Renovation		
Agency Fund		300,000
4. Murray State University		
a. Asbestos/PCB Removal		
Agency Fund	300,000	
Bond Fund	1,660,000	
(Debt service supported by Life/Safety Project Fund)		
TOTAL	1,960,000	
b. Roof Repairs/Replacement		
Agency Fund	741,000	
c. Steam/Condensate Lines Replacement		
Agency Fund	500,000	
d. Lovett Auditorium Improvements		
Agency Fund	3,700,000	
e. Fine Arts Building Renovation		
Agency Fund		2,000,000
f. Art Laboratory		
Agency Fund	400,000	
g. Carr Health Renovation		
Agency Fund	500,000	
h. Pedestrian Walkway		
Agency Fund		300,000
i. Miscellaneous Housing Projects		
Agency Fund	484,000	518,000
j. BSA Museum Renovation, Phase III		
Agency Fund (FY 1987-88, $3,700,000)		

5. Northern Kentucky University		
a. Science Building Roof Replacement		
Agency Fund	144,000	
b. University Center, Water Drainage		
Agency Fund	1,386,000	
c. Campus Entrance Improvement Project		
Agency Fund	90,000	1,140,000
d. Property Acquisition		
Agency Fund	661,000	
e. Baseball Field Completion		
Agency Fund	35,000	357,000
f. Interfaith Center		
Agency Fund	75,000	875,000
g. Parking Structure		
Bond Fund	250,000	3,700,000
(Debt service supported by agency funds)		
h. Communications Network		
Agency Fund		
6. University of Kentucky - Main Campus		
a. Asbestos/PCB Removal		
Bond Fund	200,000	
(Debt Service Supported by the Life/Safety Project Fund)		
b. Renovate Fume Hoods - Agricultural Science North		
Bond Fund	259,000	
(Debt Service Supported by the Life/Safety Project Fund)		
c. Renovate Fume Hoods - Research #3 and Medical Center		
Bond Fund	1,720,000	
(Debt Service Supported by the Life/Safety Project Fund)		
d. Cooling Plant #1 Quadrant and Four Chillers		
Agency Fund	4,250,000	2,000,000
e. Cooling Plant #2 Quadrant and Two Chillers		
Agency Fund	4,250,000	1,000,000
f. Electric Substation #2 Expansion		

Agency Fund	250,000	
g. Central Heating Plant #2 - Boiler Controls		
Agency Fund	324,000	
h. Cooling Plant #3 - Chiller Replacement		
Agency Fund	250,000	900,000
i. Chilled Water Lines		
Agency Fund	500,000	2,250,000
j. Resurfacing of Parking Lots - University Drive		
Agency Fund		280,000
k. Chilled Water Lines Connecting Cooling Plant #1 and Cooling Plant #2		
Agency Fund	400,000	
l. Steam Lines Expansion, Rose Street		
Agency Fund	500,000	
m. Dental Clinic Renovation Phase I		
Agency Fund	596,000	
n. Renovate 4th Floor Clinic to Offices		
Agency Fund	350,000	
o. Lab Improvements, Phases I and II		
Agency Fund	700,000	
p. Geology Space - Breckinridge Hall, Phase I and II		
Agency Fund	900,000	600,000
q. Pharmacy Incubation Facility, Phase I		
Agency Fund	4,000,000	
r. Agriculture Plant Science Building		
Agency Fund	8,701,000	
s. Magnetic Resonance Imaging and Spectroscopy Center (MRISC) II and III		
Agency Fund	6,000,000	
t. Office Space, Phase I and II		
Agency Fund	1,750,000	875,000
u. Morgue Renovation		
Agency Fund	300,000	
v. Renovate Electron Microscopy Room		

Agency Fund	200,000	
w. Student Center Roof Replacement		
Agency Fund	440,000	
x. Cooperstown Fire Alarm System		
Agency Fund	300,000	
y. Cooperstown Building "A" Repair		
Agency Fund	250,000	
z. Renovate Rooms 001, 004 Pharmacy		
Agency Fund	200,000	
aa. Donovan Hall Air Conditioning		
Agency Fund	1,279,000	
bb. Athletic Administrative Offices		
Agency Fund	1,353,000	
cc. Renovate Department Offices Phase I and II		
Agency Fund	400,000	400,000
dd. Indoor Athletics Practice Facility		
Agency Fund	2,585,000	
ee. Horticulture Field Lab		
Agency Fund	400,000	
ff. Placement Services Building		
Agency Fund	2,000,000	
gg. Veterinary Science Clinical Facility		
Agency Fund	6,915,000	
hh. Pesticide Storage/Preparation Building - Fayette County		
Agency Fund		340,000
ii. Pesticide Storage/Preparation Building - Caldwell County		
Agency Fund		340,000
jj. Patterson Tower Elevators		
Agency Fund		311,000
kk. Funkhouser Window Replacement		
Agency Fund		336,000
ll. Classroom Building Roof Replacement		
Agency Fund		292,000

mm. Taylor Education Building Roof Replacement		
Agency Fund		301,000
nn. Reynolds #1 Roof Replacement		
Agency Fund		329,000
oo. Memorial Coliseum Roof Replacement		
Agency Fund		302,000
pp. Chemistry/Physics Roof Replacement		
Agency Fund		361,000
qq. Renovate Dental Technique Lab		
Agency Fund		306,000
rr. Renovate Agriculture Engineering Building		
Agency Fund		650,000
ss. Plant Breeding/Genetics Building		
Agency Fund		750,000
tt. Biotechnology Center (Slone Building)		
Agency Fund		2,500,000
uu. Research Lab Space Recovery		
Agency Fund		1,200,000
vv. Renovate Labs, Phase III and IV		
Agency Fund		700,000
ww. Multi-purpose Arena Building		
Agency Fund		1,000,000
xx. Stadium Expansion and Parking Deck		
Agency Fund		16,000,000
yy. Agricultural Plant Growth Chamber		
Agency Fund	800,000	
zz. Environmentally Controlled Greenhouse		
Agency Fund	800,000	
aaa. Agricultural Social Science Building		
Agency Fund	4,000,000	
bbb. Gaines Center for the Humanities Renovation		
Agency Fund (1987-88, $143,000)		
ccc. Residence Hall, Kentucky Leadership Center at Faubush		

Agency Fund	600,000	
7. University of Kentucky - Hospital		
a. Markey Cancer Center 3rd Floor Completion		
Agency Fund	3,500,000	
b. Hospital Stores Upgrade and Road Improvement		
Agency Fund	500,000	
c. Third Floor Renovation and Expansion		
Agency Fund	700,000	
d. Diagnosis Services Upgrade I and II		
Agency Fund	400,000	400,000
e. Labor and Delivery Upgrade		
Agency Fund	300,000	
f. Animal Pathology Barn Renovation		
Agency Fund	500,000	
g. MRI Facility Clinical Component (MRISC Phase I)		
Agency Fund	1,500,000	
h. Voice/Data Wireway System		
Agency Fund	200,000	
. Incinerator Replacement		
Agency Fund	300,000	
j. Ambulatory Surgery Upgrade		
Agency Fund		750,000
k. Nursing Unit Modifications		
Agency Fund		500,000
l. Ground Floor Support Services Upgrade		
Agency Fund		300,000
m. Upgrade and Extension of Pneumatic Tube System		
Agency Fund		750,000
n. Land Acquisition for Business Services Facility		
Agency Fund		2,000,000
o. Fire Safety/Suppression System, Phase I		
Agency Fund		300,000
p. Medical Research Building - Planning		

Agency Fund	1,000,000	
8. University of Kentucky - Community College System		
a. Elizabethtown Community College - Administration and Science Building		
Agency Fund	250,000	
b. Lexington Community College - Oswald Building Renovation		
Agency Fund	250,000	
c. Prestonsburg Community College - Johnson Building Renovation		
Agency Fund		250,000
d. Hazard Community College - Academic Building Renovation		
Agency Fund		300,000
e. Southeast Community College - Building Renovation		
Agency Fund		350,000
f. Elizabethtown Community College - Administration Building Roof Replacement		
Agency Fund		217,000
g. Jefferson Community College - DT - Broadway Building Renovation Phase II		
Agency Fund		
9. University of Lousiville		
a. Residence Hall		
Bond Fund	6,000,000	
(Ddebt service supported by agency funds)		
b. Land Acquisition		
Agency Fund		5,000,000
c. University Club		
Agency Fund	4,000,000	
d. Renovation for Printing Services		
Agency Fund	400,000	
e. Renovation of "C" Building		
Agency Fund	2,154,000	
f. Kentucky Lions Eye Research Institute		
Agency Fund	6,740,000	
10. Western Kentucky University		
a. Life/Safey Improvements		
Bond Fund	800,000	

(Debt Service Supported by Life/Safety Project Fund)	
b. Asbestos Abatement	
Bond Fund	579,000
(Debt Service Supported by Life/Safety Project Fund)	
c. Hazardous Materials Storage	
Bond Fund	197,000
(Debt Service Supported by Life/Safety Project Fund)	
d. Coal Boilers #1 and #2 Replacement	
Agency Fund	1,272,000
e. HVAC System Improvements	
Agency Fund	175,000
f. Treat Exterior Surfaces	
Agency Fund	485,000
g. Snell Hall Improvements	
Agency Fund	
h. Alteration of Dairy Barn	
Agency Fund	210,000
i. Residence Hall Improvements	
Bond Fund	5,000,000
(Debt service supported by agency funds)	
j. Resident Hall	
Bond Fund	6,000,000
(Debt service supported by agency funds)	
k. Student Housing Development, 15th Street	
Bond Fund	5,886,000
(Debt service supported by agency funds)	
l. Instructional Television Station	
Federal Funds	275,000
m. Air Conditioning Units Replacement	
Bond Fund	
n. Academic Athletic Building No. 2 Structural Repairs	
Bond Fund	
o. Air Conditioning Units Replacement	

Bond Fund

p. Ivan Wilson Building Humidity Control

Bond Fund

q. Helms Cravens Building Humidity Control

Bond Fund

r. Underground Steam and Electrical Distribution Lines Replacement

Bond Fund

EQUIPMENT LISTING

11. Eastern Kentucky University

Funding for the following Eastern Kentucky University equipment purchases will be from Agency Funds.

a. Equipment under $50,000	900,000	900,000
b. CAD Drafting System		
c. PRINTING PRESS	63,000	
d. CNC TURNING CENTER		
e. TRANSMITTER - WEKU FM	120,000	
f. DIESEL BUSES	15,000	
g. ACADEMIC COMPUTER	480,000	
h. X-RAY FLORESCENT SYSTEM	90,000	
i. BUSINESS COMPUTER	95,000	
j. TECHNOVATE PNEUMATIC UNIT		
k. LOCAL AREA NETWORK	80,000	80,000
l. PBX SWITCH	500,000	500,000

12. Morehead State University

Funding for the following Morehead State University equipment purchases will be from Agency Funds.

a. CNC LATHE		
b. CAD/CAM UPGRADE FOR PRIME SOFTWARE	81,500	
c. GAS CHROMATOGRAPH/MASS SPECTROMETER	74,500	
d. PLANETARIUM PROJECTOR & 10 MTR DOME	195,000	
e. COMPUTER LAB	68,000	
f. SCANNING ELECTRON MICROSCOPE	80,000	
g. MICROSCOPES		67,200
h. STATE OF THE ART 386 MICROCOMPUTERS	221,500	
i. ELECTRONIC ORGAN	100,000	

j. NINE FOOT CONCERT GRAND PIANO	30,000	30,000
k. ELECTRONIC LAB/RECORDING STUDIO	60,000	
l. LIBRARY AUTOMATION SYSTEM		
m. WELDING INDUSTRIAL ROBOT		74,000
n. ACADEMIC/ADMINIS. COMPUTING SYSTEM	625,000	
o. COMMUNICATIONS/NETWORKING SYSTEM	381,000	
p. MISCELLANEOUS COMPUTING EQUIPMENT	53,000	
q. ACADEMIC SOFTWARE	68,500	
r. TELEPHONE SWITCHING SYSTEM/SUPPORT	487,200	
s. BULLDOZER	10,000	

13. Murray State University

Funding for the following Murray State University equipment purchases will be from Agency Funds.

a. UPGRADE IBM 4341 COMPUTER	650,000	50,000
b. SPECTROMETER	60,000	
c. UPGRADE CONTROL IMAGE PROCESSOR	75,000	
d. NUMERICAL CONTROL INJECTION MOLDING	90,000	
e. COMPUTER AIDED DESIGN LAB	527,600	
f. FLEXIBLE MANUFACTURING SYSTEM	485,000	
g. NUMERICAL CONTROL ROUTER SYSTEM	55,000	
h. MICRO COMPUTER LAB		165,000
i. ELECTRIC SERVICE TRUCK WITH BOOM		60,000
j. INTEGRATED ONLINE LIBRARY SYSTEM		250,000
k. GAS CHROMATOGRAPH/MASS SPECTROMETER		100,000
l. HIGH PRESSURE LIQUID CHROMATOGRAPH		50,000
m. ARTIFACT STORAGE/DISPLAY SYSTEM		252,000

14. Northern Kentucky University

Funding for the following Northern Kentucky University equipment purchases will be from Agency Funds.

a. GAS CHROMATOGRAPH/MASS SPECTROMETER (FY 1987-88—92,000)		
b. MAINFRAME COMPUTER	181,900	181,900
c. XEROX 9900 VR (LEASE/PURCHASE)	31,300	31,300
d. INTERLINK SYSTEM	130,000	
e. MINICOMPUTER FRONT END PROCESSOR	155,000	
f. LIBRARY AUTOMATION PROJECT	115,000	115,000

g. MINICOMPUTER UPGRADE	145,000	145,000
h. TOUCH TONE DATA ENTRY RESPONSE SYSTEM	5,300	
i. NUCLEAR MAGNETIC RESONANCE SPECTROMETER		142,000
j. OPTICAL SCANNER	85,000	
k. ENERGY MANAGEMENT SYSTEM UPGRADE	140,000	
l. TWO COLOR PRESS	135,000	

15. University of Kentucky - Main Campus

Funding for the following University of Kentucky equipment purchases will be from Agency Funds.

— COMPUTER UPGRADE	390,000
— COMPUTER STORAGE EQUIPMENT	750,000
— COMPUTER STORAGE EQUIPMENT	650,000
— DATA COMMUNICATIONS EQUIPMENT	250,000
— SYSTEM NETWORK ARCHITECTURE FACILITY	1,000,000
— IMAGE PROCESSING/DISPLAY SYSTEM	600,000
— MAINFRAME MEMORY AND CHANNEL EXPANSION	1,125,000
— COMPUTER STORAGE SYSTEM TAPES	430,000
— INSTRUCTIONAL SUPPORT SYSTEM	800,000
— VS65 COMPUTER UPGRADE	100,000
— ENERGY MANAGEMENT SYSTEM	419,000
— MOBILE ROBOT PACKAGE	100,000
— FLEXIBLE ASSEMBLY LINE	100,000
— CNC VERTICAL MILL	72,500
— FORAGE TESTING SYSTEM	65,000
— IRRIGATION SYSTEM	100,000
— MATERIAL SYTHESIS EQUIPMENT	410,000
— TRANSFORM INTERFEROMETER	150,000
— BLOOD CHEM/ELECTRO/HEMAT SYSTEM	96,200
— HORIZONTAL CNC MACHINING CENTER	180,000
— GAS CHROMATOGRAPH	80,000
— IMAGE DEVELOPMENT COMPUTER	181,200
— VOICE RESPONSE TELEPHONE REGISTRATION SYSTEM	147,000

— STABLE ISOTOPE MASS SPECTRO SYSTEM	130,000
— SIGNAL PROCESSING SYSTEM	75,000
— COMPUTERIZED SCANNING SYSTEM	65,000
— NETWORK ANALYZER	52,000
— SUPER MINICOMPUTER	300,000
— INDUSTRIAL ROBOTS	100,000
— PC ETHERNET	150,000
— NETWORK COMMUNICATION	285,000
— HARRIS HCX-7 UPGRADE	125,000
— LOCAL AREA NETWORK	50,000
— AT&T 3B20 UPGRADE	100,000
— HIGH TEMPERATURE OPTICAL MICROSCOPE	105,000
— HARRIS HCX-7 UPGRADE	80,000
— HIGH SPEED VIDEO RECORDER W/PERIPHERALS	120,000
— PLOTTER FOR HARRIS HCX-7	50,000
— HORIZONTAL BORING MACHINE	52,500
— LATHE W/48" SWING	65,000
— BLOOD PROFILE ANALYSIS SYSTEM	60,000
— MOBILE DENTAL CLINIC	162,000
— TRACK TYPE TRACTOR	73,800
— CATALOG REMOTE ACCESS SYSTEM	50,000
— COMPACT SHELVING (3)	150,000
— ARTIFICIAL INTELLIGENCE FILE SAVER	60,000
— MINICOMPUTER	470,000
— LINE TEST EQUIPMENT	55,000
— VS COMPUTER	202,000
— DISTRIBUTED PBX (3)	175,000
— DEV COMPUTER/HARDWARE-ANSER	60,000
— COMPUTER UPGRADE II UPDATE MASTER	240,000
— DATA ACQUISITION/ANALYSIS COMPUTER	70,000
— EDITING/MAILING SYSTEM	60,000
— LOG TRUCK	58,000

—	INDUSTRIAL QUALITY ROBOT	50,000
—	ROTOR TEST FACILITY	70,000
—	EXTEND 2-D LDV TO 3-D LDV	90,000
—	VAPOR DEPOSITION SYSTEM	150,000
—	GAS CHROMATOGRAPH/MASS SPECTROMETER	61,500
—	DOCUMENT IMAGE ARCHIVAL/RETRIEVAL	177,000
—	STUDIO TV CAMERA	65,500
—	TELEPHONE 4600E PBX	500,000
—	20 PORT AUDIO BRIDGE	72,500
—	VIDEO RECORDER/PLAYER	62,800
—	CADAVER STORAGE RACK	140,800
—	COMPUTER AIDED DESIGN/COMPUTER EQUIPMENT	156,000
—	CRYOLATHE	102,500
—	RESEARCH MINICOMPUTER	350,000
—	KINETIC COMMUNICATOR SYSTEM	72,400
—	MANAGEMENT MINICOMPUTER	365,000
—	METABOLIC CART	50,000
—	MAGNETIC RESONANCE IMAGER	3,000,000
—	ADMINISTRATIVE MINICOMPUTER	206,000
—	HIGH PERFORMANCE LIQUID CHROMATOGRAPH	50,000
—	SCANNING ELECTRON MICROSCOPE	355,000
—	IMAGE ANALYSIS SYSTEM	155,000
—	SECONDARY ION MASS SPECTROSCOPY	150,000
—	INTEGRATED ANGI, DOPPLER, ECHO	1,100,000
—	RESEARCH MINICOMPUTER	51,500
—	WALK-IN FREEZER	75,000
—	AUTO AFTERLOADER	168,300
—	ELECTRORETINOGRAM	98,800
—	FIELD EMISSION GUN FOR STEM	200,000
—	IMAGING SYSTEM	97,900
—	DESKTOP PUBLISHING SYSTEM	139,100

— BASEBALL GRANDSTAND	100,000	
— REHABILITATION/FITNESS EQUIPMENT	52,900	
— EXERCISE EQUIPMENT	52,900	
— TRACK GRANDSTAND	100,000	
— CLINICAL PATIENT CARE COMPUTER	448,100	
— DATA STORAGE DEVICES	77,300	
— DIFFUSION FURNACE	150,000	
— JOINT TESTING EQUIPMENT	50,000	
— VIDEO MICROSCOPY EQUIPMENT	60,000	
— GAS CHROMATOGRAPH	60,000	
— MODELING SYSTEM	180,300	
— TREATMENT PLANNING SYSTEM	61,800	
— BEHAVORIAL ANALYSIS SYSTEM	60,000	
— LIGHT MICROSCOPE	55,000	
— IMAGE ANALYZER	107,000	
— HIGH PERFORMANCE LIQUID CHROMATOGRAPH	58,600	
— HPLC/FPLC	64,000	
— COMPUTER STORAGE EQUIPMENT		750,000
— DATA COMMUNICATIONS EQUIPMENT		250,000
— MAINFRAME MEMORY EXPANSION		250,000
— ENERGY MANAGEMENT SYSTEM		427,000
— MOBILE ROBOT PACKAGE		100,000
— FLEXIBLE ASSEMBLY LINE		100,000
— CONSTRUCTION BOOM LIFT		100,000
— FRONT LOADING GARBAGE TRUCK		105,000
— LOCAL AREA NETWORK		50,000
— UKNET GATEWAY		50,000
— ELECTRON SPIN RESONANCE SPECTROMETER		181,000
— GRAIN COMBINE		72,000
— SMALL ANIMAL CAGE WASHER		75,500
— WELDING WORKSTATION		100,000
— CONTROLLED ATMOSPHERE SINTERING FURNACE		60,000

— AUTOMATED HARDNESS TESTING MACHINE	100,000
— CRYSTAL GROWTH FURNACE	100,000
— HOLOGRAPHIC SYSTEM W/IMAGE ANALYZER	110,000
— DOUBLE MONOCHROMATER	61,000
— DEV COMPUTER/HARDWARE-ANSER	180,000
— LASER PRINTER	80,000
— COMPUTER DISK STORAGE/MEMORY EXPANSION	120,000
— STUDIO TV CAMERA	65,500
— RADIO LABELED CHROMATOGRAPHY SYSTEM	51,000
— NUCLEAR DATA ACQUISITION SYSTEM	80,000
— RESEARCH MINICOMPUTER	242,100
— UNIVERSAL 40 TON TESTING MACHINE	70,000
— LIQUID CHROMATOGRAPH SYSTEM & ACCESS	56,000
— MASS SPECTROMETER	100,000
— VERTICAL CNC MACHINING CENTER	240,000
— POSITION EMISSION TOMO SCANNER	3,000,000
— MASS SPECTROMETER W/TRIPLE QUADRUPLE	970,000
— SPECTROMETER	80,300
— ULTRACENTRIFUGE	134,000

16. University of Kentucky — Hospital

Funding for the following University of Kentucky — Hospital equipment purchases will be from Agency Funds.

a. COMPUTER DISK STORAGE	434,000
b. MATERIALS MANAGEMENT SYSTEM	192,000
c. MAINFRAME CENTRAL PROCESSOR	2,300,000
d. AUTOMATED PAYROLL SYSTEM	220,000
e. INCINERATOR	300,000
f. EMERGENCY VEHICLE	125,000
g. CARDIAC CATHETERIZATION LAB REPLACEMENT	1,320,000
h. RADIATION MEDICINE TREATMENT EQUIPMENT	885,000
i. MOBILE FLUOROSCOPIC EQUIPMENT	135,000

j. MULTIPHASIC CHEMICAL ANALYZER	198,000	
k. AUTOMATED CHEMISTRY ANALYZER	121,000	
l. RADIOGRAPHIC FLUORSCOPIC UNIT	440,000	
m. RADIOLOGICAL IMAGING SYSTEM	550,000	
n. RADIOGRAPHIC IMAGING SYSTEM	209,000	
o. ANGIOGRAPHIC EQUIPMENT	99,000	
p. SURGERY LASER	140,000	
q. HEART SURGERY EQUIPMENT	250,000	
r. NEUROSURGERY DIAGNOSTIC EQUIPMENT	140,000	
s. PATIENT CARE SYSTEM	100,000	
t. ECHOCARDIOGRAPHIC EQUIPMENT	150,000	
u. ENDOSCOPE SYSTEM	60,000	
v. NUCLEAR MEDICINE CAMERA	280,000	
w. OPHTHALMIC EQUIPMENT	90,000	
x. NEUROLOGIC DIAGNOSTIC EQUIPMENT	80,000	
y. ULTRASOUND SYSTEM	185,000	
z. AUTOMATED CYTOGENETICS ANALYZER	80,000	
aa. SPECIAL CHEMISTRY AUTOMATED ANALYZER	70,000	
bb. BLOOD PROCESSOR	55,000	
cc. MICROBIOLOGY AUTOMATED PROCESSOR	85,000	
dd. HYPERBARIC CHAMBER	80,000	
ee. FINANCIAL PLANNING SYSTEM	150,000	
ff. PRINTER	65,000	
gg. WORD PROCESSING EQUIPMENT	100,000	
hh. MAGNETIC RESONANCE IMAGING EQUIPMENT	2,600,000	
ii. DISK STORAGE UNITS		300,000
jj. RADIOLOGY INFORMATION SYSTEM		100,000
kk. CLINICAL COMPUTING EQUIPMENT		200,000
ll. EMERGENCY VEHICLE		120,000
mm. SURGICAL LASER		150,000
nn. SURGICAL DIAGNOSTIC EQUIPMENT		150,000
oo. OPHTHALMOLOGY MICROSCOPE		70,000
pp. RADIOGRAPHIC FLUOROSCOPIC UNIT		305,000

qq. RADIOGRAPHIC UNIT	200,000
rr. CHEST IMAGING UNIT	195,000
ss. MAMMOGRAPHIC SYSTEM	105,000
tt. IMAGING UNIT	155,000
uu. COMPUTERIZED TOMOGRAPHY SCANNER	1,950,000
vv. TOXICOLOGY PROCESSOR	60,000
ww. AUTOMATED LABORATORY ANALYZER	330,000
xx. HEMATOLOGY AUTOMATED PROCESSOR	187,000
yy. ULTRASOUND SYSTEM	135,000
zz. VASCULAR DIAGNOSTIC EQUIPMENT	200,000
aaa. NUCLEAR MEDICINE CAMERA	250,000
bbb. TREATMENT PLANNING COMPUTER	150,000
ccc. NEUROLOGY SCANNING SYSTEM	70,000
ddd. MAINFRAME UPGRADE	400,000
eee. RADIATION MEDICINE UNIT	1,000,000
fff. HELICOPTER	3,000,000

17. University of Kentucky— Community College System

Funding for the following University of Kentucky Community College System will be from Agency Funds.

a. Jefferson DT: ENERGY MANAGEMENT SYSTEM		150,000	
b. Ashland: ENERGY MANAGEMENT SYSTEM		85,000	
c. Ashland: DATA/COMMUNICATION SYSTEM		95,000	
d. Paducah: ENERGY MANAGEMENT SYSTEM		85,000	
e. LIBRARY MINICOMPUTER	300,000		
f. Madisonville: ENERGY MANAGEMENT SYSTEM			100,000
g. Jefferson: ENERGY MANAGEMENT SYSTEM			75,000
h. Prestonsburg: ENERGY MANAGEMENT SYSTEM			100,000
i. Somerset: DATA/COMMUNICATION SYSTEM			85,000
j. IBM 4331 UPGRADE			150,000
k. LIBRARY MINICOMPUTER			265,000

18. University of Louisville

Funding for the following University of Louisville equipment purchases will be from Agency Funds.

a. CENTRAL PROCESSING UNIT	600,000	600,000
b. TELECOMMUNICATIONS SYSTEM		500,000

c. TYPESETTING EQUIPMENT	50,000	
d. TRANSMISSION ELECTRON MICROSCOPE	216,300	
e. CHANNEL UPGRADE		125,000
f. DATA COMMUNICATIONS NETWORK EXPANSION		350,000
g. LASER PRINTERS		100,000
h. EMERGENCY CALL BOX SYSTEM	100,000	
i. CLOSED-CIRCUIT TELEVISION MONITOR	100,000	
j. VOICE RESPONSE SYSTEM		153,500
k. HIGH ENERGY LINEAR ACCELERATOR	1,800,000	
l. FLOW CYTOMETRY	153,200	
m. NUCLEAR MAGNETIC RESONANCE SPECTROMETER	1,360,000	
n. METABOLIC MEASUREMENT CART	65,000	
o. REMOTE AFTERLOADER FOR BRACHYTHERAPY	240,000	
p. GAMMA & BETA RADIOACTIVITY COUNTERS	65,000	
q. PEPTIDE SYNTHESIZER	85,900	
r. FLUORESCENT MICROSCOPE	55,000	
s. NUCLEAR COUNTING SYSTEM	50,600	
t. INTERFACED CAPILLARY COLUMN GAS CHROMATOGRAPH/FOURIER TRANSFORM INFRARED SPECTROPHOTOMETER/DATA SYSTEM	85,500	
u. AMINO ACID ANALYZER	101,000	
v. PROTEIN SEQUENCER	95,900	
w. PAIN MANAGEMENT FACILITY	94,100	
x. PLOTTER SUBSYSTEM		75,000
y. TAPE SUBSYSTEMS		400,000
z. NUCLEAR MAGNETIC RESONANCE SPECTROMETER		129,000
aa. SCIENTIFIC PROCESSOR UPGRADE		250,000
bb. BASIC RADIOGRAPHIC/FLOROSCOPIC UNIT		260,000
cc. DYNAMIC MECHANICAL ANALYZER		60,700
dd. MODULATION GENERATOR		55,000
ee. MICROVAX II COMPUTER SYSTEMS	61,600	61,600

ff. MAGNETIC CIRCULAR DICHORISM SPECTROMETER		77,300
gg. SYNTHESIZER	60,000	
hh. PIPE ORGAN		75,000
ii. 47 PASSENGER HIGHWAY BUS		200,000
jj. TRASH COMPACTOR TRUCK		75,000

The following academic equipment requested from state supported bonds are authorized from Agency Funds to the extent available.

a. CORONARY ANGIOGRAPHY SYSTEM	165,000
b. ELECTROPHYSIOLOGY SYSTEM	151,000
c. IMAGE PROCESSING UNIT	209,500
d. MATERIAL TEST SYSTEM UNIVERSAL TESTING MACHINE	252,000
e. ANIMAL IRRADIATOR	140,000
f. AUTOMATIC RECORDING SPECTROPOLARIMETER	67,500
g. LASER FLUORIMETRIC SYSTEM	85,700
h. GRAPHICS MODELING SYSTEM	80,900
i. ELECTRONIC ANALYZER/DESIGN SYSTEM	89,800
j. ORTHO CYTOFLUORAGRAPH	216,500
k. CAE/FACTORY AUTOMATION FACILITY	535,000
l. COMPUTER DISK DRIVE	50,000
m. ARRAY PROCESSOR SYSTEM	153,900
n. NUCLEAR MAGNETIC RESONANCE SPECTROMETER	568,800
o. DISK SUBSYSTEMS	300,000
p. CENTRAL PROCESSING UNIT/UPGRADE	2,500,000
q. MEMORY UPGRADE	100,000
r. TRANSMISSION ELECTRON MICROSCOPE	331,300
s. SCANNING ELECTRON MICROSCOPE	100,000
t. TISSUE CULTURE LABORATORY	140,700
u. ANESTHESIA/CELLULAR NEUROSCIENCES LAB	62,000
v. GAS CHROMATOGRAPH/MASS SPECTROMETER SYSTEM	86,700
w. HYPERTHERMIA EQUIPMENT	240,000
x. FLOW CYTOMETER	85,000

y. ULTRA HIGH VACUUM CHAMBER/MASS SPECTROMETER	80,000
z. MATERIALS TESTING SYSTEM	85,000
aa. MICROCOMPUTER LOCAL AREA NETWORK	100,000
bb. TRANSMISSION ELECTRON MICROSCOPE	111,000
cc. CONDENSED MATTER ANALYTICAL FACILITY	53,000
dd. CHANNEL UPGRADE	125,000
ee. DATA COMMUNICATIONS NETWORK EXPANSION	350,000
ff. SCIENTIFIC PROCESSOR	500,000
gg. LASER PRINTER	350,000
hh. THERMOGRAPHIC SYSTEM (INFRARED CAMERA/IMAGE PROCESSING SYSTEM)	80,000
ii. HIGH PERFORMANCE LIQUID CHROMATOGRAPHY SYSTEM	51,200
jj. LIQUID CHROMATOGRAPHY SYSTEM	75,000
kk. LASER OPTICS LABORATORY	556,000
ll. ARGON/DYE LASER	83,000
mm. COMPUTER NUMERICALLY CONTROLLED GRINDING MACHINE	178,000
nn. COMPUTER SYSTEM FOR INSTRUCTIONAL SUPPORT	160,000
oo. ROBOT	52,000
pp. MICROCOMPUTER DEVELOPMENT SYSTEM	62,000
qq. TORSIONAL TESTING MACHINE	60,000
rr. PLOTTER SUBSYSTEM	75,000
ss. TAPE SUBSYSTEMS	400,000
tt. ULTRACENTRIFUGE	56,500
uu. RADIONUCLIDE DETECTION SYSTEM	60,100
vv. LIQUID CHROMATOGRAPH/MASS SPECTROMETER	98,000
ww. ABSORPTION/PACKED BED HYDRAULICS EXPERIMENT	70,000
xx. MICROFICHE EQUIPMENT	150,000
yy. OPTICAL CHARACTER SCANNER	75,000
zz. VECTOR FACILITY	500,000
aaa. UNINTERRUPTABLE POWER SUPPLY	150,000

bbb. GRAPHICS COMPUTER	80,000
ccc. TELEVISION EDITING SYSTEM	54,000
ddd. STUDIO TELEVISION CAMERAS	309,300
eee. INSTRUCTIONAL TELEVISION FIXED SERVICE TRANSMITTERS	106,700
fff. CABLE TELEVISION DISTRIBUTION SWITCH	99,600
ggg. DISK SUBSYSTEMS	300,000
hhh. MEMORY UPGRADE	100,000

19. Western Kentucky University

Funding for the following Western Kentucky University equipment purchases will be from Agency Funds, except as noted.

a. TELEVISION CAMERAS	110,000
b. CLUSTER CONTROLLER	54,600
c. CENTRAL PROCESSOR, CONTROLLER/DD	469,000
d. UPGRADE VAX 8650	400,000
e. CENTRAL PROCESSOR ACADEMIC	721,000
f. DISK DRIVES	89,000
g. TAPE CONTROLLER	51,500
h. ELECTRON MICROSCOPE	70,000
i. GARBAGE TRUCK	60,000
j. TELEPHONE COMMUNICATIONS SWITCHING	1,200,000
k. MAGNETIC RESONANCE	
Agency Fund	70,000
Federal Fund	70,000
Total	140,000
l. PLASMA UNIT	
Agency Fund	35,000
Federal Fund	35,000
TOTAL	70,000
m. MICROSCOPE PHOTOMETER	
Agency Fund	60,000
Federal Fund	60,000
TOTAL	120,000

n. NUMERIC CONTROL UNIT		
Agency Fund	25,000	
Federal Fund	25,000	
TOTAL	50,000	

H. CABINET FOR HUMAN RESOURCES

1. Department for Mental Health/Mental Retardation		
a. Miscellaneous Projects		
Investment Income	400,000	400,000
b. Hazelwood Facility		
General Fund	1,250,000	
2. Department for Social Services		
a. Miscellaneous Projects		
Investment Income	300,000	300,000
3. Administration and Program Support		
a. Miscellenaous Projects		
Investment Income	400,000	300,000
b. Health Services Building Asbestos Abatement		
Bond Fund	5,100,000	
4. Department for Social Insurance		
a. Child Support Enforcement Automation System		
Agency Fund	167,200	
Federal Fund	1,504,500	
TOTAL	1,671,700	

I. JUSTICE

1. Department of State Police		
a. Minor Projects		
Investment Income	100,000	100,000
b. Micro - FTIR Analysis System		
Agency Fund	150,000	150,000
c. Laboratory Information System		
Federal Funds	225,000	225,000

J. NATURAL RESOURCES AND ENVIRONMENTAL PROTECTION

For the capital construction project displayed in this section as an agency fund supported project, it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. State-Owned Dam Repair		
Investment Income	1,000,000	
2. Kentucky Abandoned Lands - Reclamation Program		
Federal Fund	24,000,000	24,500,000

The Commonwealth believes mining practices prior to the 1977 Federal Surface Mining Act have significantly degraded drinking water supplies. To promote the health and safety of its citizens, the Commonwealth supports a high priority ranking for those Abandoned Mine Land projects that insure safe and dependable water supplies.

3. Infrastructure Revolving Loan Fund		
Bond Fund	6,937,000	4,734,200
4. Nature Preserves Acquisition Fund		
Agency Fund	40,000	40,000

K. PUBLIC PROTECTION AND REGULATION

For the major equipment purchase displayed in this section as agency fund or general fund supported projects it is anticipated that these funds shall be transferred from the operating fund at such time as funds are available and needed. The total project cost shown does not reflect an addition to the operating fund appropriation.

1. Public Service Commission		
a. Expand Current Central Processing Unit		
Agency Fund		150,000

L. TOURISM

The total project costs shown do not reflect additions to the operating fund appropriations.

1. Parks		
a. Miscellaneous Major Maintenance		
Investment Income	3,200,000	3,200,000
b. Kincaid Lake-Swimming Pool		
Bond Fund	768,400	
Agency Fund	50,000	
TOTAL	818,400	
c. Blue Licks-Multipurpose Building and Cottages		
Bond Fund	285,000	
d. Jenny Wiley Meeting Room and Parking		
Bond Fund	2,544,000	

e. Greenbo Meeting Room		
Bond Fund	1,065,600	
f. Natural Bridge-Expansion of Kitchen and Dining Room		
Bond Fund	279,200	
g. Lake Barkley-Reroof Lodge		
Bond Fund	759,000	
h. Kingdom Come State Park Crafts Building and Information Center		
General Fund		
Bond Fund		
i. Pine Mountain Meeting Facility		
Bond Fund	1,400,000	
j. Rough River Meeting Facility		
General Fund	110,000	
Bond Fund		1,332,200
k. Audubon — Nature Center		
Agency Fund	120,000	
l. Ft. Harrod — Museum Renovation		
General Fund	25,000	
Bond Fund		278,000
2. Kentucky Horse Park		
a. Miscellaneous Major Maintenance		
Investment Income	200,000	
b. Sewage Treatment Plant Expansion		
General Fund	300,000	
3. State Fair Board		
a. Major Maintenance, Renovation and Repair Projects		
Investment Income	500,000	500,000
b. Exhibit Hall Expansion		
Bond Fund		15,000,000
4. Fish and Wildlife Resources		
a. Miscellaneous Minor Projects		
Agency Fund	36,800	44,300
Federal Fund	110,200	132,700

TOTAL	147,000	177,000
b. Minor Clark and Frankfort Hatchery Repairs		
Agency Fund	168,500	216,000
Federal Fund	505,500	648,000
TOTAL	674,000	864,000
c. Land Acquisition		
Agency Fund	1,020,000	1,020,000
d. Lakes Construction		
Agency Fund	35,000	35,000
Federal Fund	105,000	105,000
TOTAL	140,000	140,000
e. Education Center-Game Farm		
Agency Fund	350,000	
f. Swimming Pool-Camp Currie		
Agency Fund	200,000	
g. Backhoe		
Agency Fund	17,500	
Federal Fund	52,500	
TOTAL	70,000	
h. Boat Ramps on Rivers		
Agency Fund	200,000	200,000
i. Yatesville Lake — Parking, Utilities, boat ramps, and other access facilities		
Agency Fund	580,000	
Federal Fund	580,000	
TOTAL	1,160,000	

M. TRANSPORTATION

For the Major Equipment purchases and capital construction projects displayed in this section, it is anticipated that the funds shall be transferred from the operating fund at such time as funds are available and needed. The total project costs shown do not reflect additions to the operating fund appropriations.

1. Adair County Maintenance Facility		
Road Fund	401,600	
2. Perry County Maintenance Facility		

Road Fund		413,600
3. Interactive Graphics System Expansion and Enhancements		
Road Fund	397,100	422,500
4. Owsley County Maintenance Facility		
Road Fund		
5. Lyon County Weigh Station		
Road Fund		
6. US-41 Port of Entry Weigh Station		
Federal Fund	165,000	1,365,000
Road Fund	55,000	455,000
TOTAL	220,000	1,820,000

In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any General Fund appropriated debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund. Those projects set forth under the sub-heading "higher education" are subject to the action and approval of the Council on Higher Education and subject to approval of the Finance and Administration Cabinet. The provisions of KRS 45.750 through 45.990 notwithstanding, it is the intent of the General Assembly that capital construction projects at institutions of higher education involving no state or federal funds, may be authorized between Regular Sessions of the General Assembly, providing that such projects receive prior approval from both the Council on Higher Education and the Secretary of the Finance and Administration Cabinet, and that the Capital Construction and Equipment Purchase Oversight Committee receives prior notification.

Pursuant to the provisions of KRS 45.760(12), the Capital Construction and Equipment Purchase Contingency Fund may be used to advance funds to projects authorized to be financed by bonds and may be used to finance feasibility studies for future projects.

Roof repair or replacement projects shall be eligible for Emergency Repair, Maintenance, and Replacement Fund allotments, subject to the provisions of KRS 45.780.

Before any economic development bonds are issued, the proposed bond issue shall be approved by the Secretary of the Finance and Administration Cabinet and the State Property and Buildings Commission under the provisions of KRS 56.440-56.720. Administration of the Economic Development Bond program by the Secretary of Commerce is subject to the guidelines contained herein: 1) Project selection criteria are to be developed by the Secretary of Commerce. The criteria shall include but not be limited to such issues as: a project's job creation and/or job retention potential, degree of public and/or private local involvement, and potential project payback and/or contribution in retiring the associated debt obligation. 2) Projects of state agencies are not eligible for funding from this source unless expressly provided for in the appropriation act. 3) Project selection shall be documented when presented to the Secretary of Finance. Included in the documentation shall be the rationale for selection and expected economic development impact. 4) Following approval by the Secretary of Finance and Administration Cabinet and the State Property and Buildings Commission, the project shall be presented by the Commerce Cabinet to the next regularly scheduled Capital Construction and Equipment Purchase Oversight Committee meeting for information and review under the provisions of KRS 45.750-45.800.

Inasmuch as the identification of specific projects in a variety of areas of the State Government cannot be ascertained with absolute certainty at this time, it is the purpose and intent of the General Assembly, to appropriate amounts for specific purposes to projects which are not individually identified herein in the following areas: Repair of State-Owned Dams, Economic Development Projects, Handicapped Access, Fire and Life Safety, and Asbestos Litigation and Abatement projects. Any such projects estimated to cost over $200,000 and equipment estimated to cost over $50,000 shall be reported to the Capital Construction and Equipment Purchase Oversight Committee. All monies transferred to the Finance and Administration Cabinet for capital construction from any appropriations, including income from investments, shall be expended, accounted for, and otherwise treated in the same manner as funds appropriated directly to the Finance and

Administration Cabinet for capital construction.

PART VI

GENERAL PROVISIONS

1. Except as otherwise explicitly authorized by this Act, nothing in this Act shall be construed to repeal any appropriation made hereinbefore or hereinafter for the fiscal year ending June 30, 1988, and nothing in this Act is to be construed as amending or altering the provisions of Chapters 42, 45, and 48 of the Kentucky Revised Statutes pertaining to the duties and powers of the Secretary of the Finance and Administration Cabinet. All questions that arise in interpreting any appropriation in this Act as to the purpose or manner for which such appropriation may be expended shall be decided by the Secretary of the Finance and Administration Cabinet pursuant to KRS 48.500 and the decision of the Secretary of the Finance and Administration Cabinet shall be final and conclusive.

2. In enacting this Appropriation Act, it is the deliberate intention of the General Assembly to enact each section, and each subsection thereof as a separate and/or specific appropriation and law, and if any section, any subsection, or any provision thereof shall be held invalid or unconstitutional, the decision of the courts shall not affect or impair any of the remaining sections, subsections, or provisions contained herein.

3. The Secretary of the Finance and Administration Cabinet is authorized to establish a system or formula or a combination of both for pro-rating the administrative costs of the Finance and Administration Cabinet, and the Departments of Treasury and Law relative to the administration of programs in which there is joint participation by the State and Federal Governments for the purpose of receiving the maximum amount of participation permitted under the appropriate Federal laws and regulations governing such programs.

4. All continuing appropriations in existence at the time this Act takes effect are discontinued and repealed by this Act except as provided by Chapters 12, 42, 56, 152, 177, and 341 of the Kentucky Revised Statutes. All laws and portions of laws in conflict with any of the provisions of this Section, to the extent of such conflict, are hereby repealed, unless otherwise provided by this Act.

5. No state agency, cabinet, department, office, or program shall incur any obligation against the General Fund appropriations contained herein unless such obligation may be reasonably determined to have been contemplated in the enacted budget and is based upon supporting documentation and legislative and executive records.

6. Any General Fund appropriation made herein in anticipation of a lack, loss, or reduction of Federal funds shall lapse to the General Fund to the extent such Federal funds otherwise become available.

7. The Secretary of the Finance and Administration Cabinet shall cause the Governor's Office for Policy and Management, within seventy-five days upon adjournment of the 1988 General Assembly, to prepare a final budget document based upon the Executive Budget proposal as enacted by the 1988 General Assembly as well as other acts which provide appropriations for the 1988-90 biennium and based upon supporting documentation and legislative records as considered by the 1988 General Assembly. This document shall include for each agency and budget unit a consolidated budget summary statement of available regular and continuing appropriated revenue by fund source, corresponding appropriation allocations by program or subprogram as appropriate, budget expenditures by principal budget class and such other fiscal data and commentary considered necessary by the Governor's Office for Policy and Management for budget execution and oversight. The enacted budget document and any adjustments thereto approved by the Governor's Office for Policy and Management as provided in each part of this Act or by Law, and any supporting documents, shall be communicated to the Interim Joint Committee on Appropriations and Revenue on a regular basis.

8. In the event that any authorized capital construction and/or equipment purchase projects are cancelled it is the intent of the General Assembly that any appropriated General Fund debt service for those same projects shall remain unallotted and lapse to the credit of the General Fund except for the School Facilities Construction Commission. In the event that General Fund appropriated debt service is less than required due to favorable interest rates, refinancing, or timing variances, the excess debt service in each fiscal year shall remain unallotted and lapse to the credit of the General Fund. Funds appropriated to the School Facilities Construction Commission in fiscal year 1988-89 beyond those necessary to meet debt service requirements shall be retained in the account of the School Facilities Construction Commission and reallocated to eligible school districts in fiscal year 1989-90.

9. It is the intent of the General Assembly that the Secretary of the Transportation Cabinet shall use Road Fund resources to meet the lease rental payments to the Kentucky Turnpike Authority for Resource Recovery Road projects in the amount certified by the Secretary of the Transportation Cabinet. However,

in the event that Road Fund resources are not sufficient to meet lease rental payments, the additional amount required for meeting lease rental payments as certified by the Secretary of the Transportation Cabinet under KRS 143.090 shall be transferred from coal severance tax receipts to meet the obligation.

10. The General Assembly recognizes that during fiscal year 1986-87 and fiscal year 1987-88, the General Fund revenues of the Commonwealth were less than the estimates upon which appropriations for those fiscal years were made under KRS Chapter 47 by the 1986 General Assembly. The General Assembly acknowledges that as a result of shortfalls in the revenues during the biennium for which funds were appropriated by the 1986 General Assembly the Secretary of the Finance and Administration Cabinet, as directed by KRS Chapter 47, took action to prevent an overdraft or deficit in the finances of the Commonwealth through the reduction of appropriations made under authority conferred pursuant to KRS Chapter 47 and by various other actions, all as set forth in and provided by Orders 87-462, 87-831, 87-881, and 88-432 of the Secretary of the Finance and Administration Cabinet, which Orders are permanent records of the Commonwealth, on file with the State Budget Director in the Governor's Office for Policy and Management.

It is the intent of the General Assembly herein to ratify and confirm the appropriation levels appearing in Orders 87-462, 87-831, 87-881, and 88-432 of the Secretary of the Finance and Administration Cabinet as the General Fund appropriations for fiscal year 1986-87 and fiscal year 1987-88, respectively, for the offices, boards, commissions, institutions, subdivisions and agencies of the Government of the Commonwealth of Kentucky, except so much thereof as relates to the appropriation to the Local Government Economic Assistance Fund, which sum shall be determined as provided by KRS 42.450; it is the further intent of the General Assembly herein, the provisions of any other law of the Commonwealth to the contrary notwithstanding, to ratify and confirm the advances, transfers and lapsing to the General Fund of all non-General Fund monies as identified in Orders 87-462, 87-831, 87-881, and 88-432 of the Secretary of the Finance and Administration Cabinet, and to that end, the General Assembly hereby expressly ratifies, adopts, and enacts the appropriation levels contained in Orders 87-462, 87-831, 87-881, and 88-432, as the appropriations for the offices, boards, commissions, institutions, subdivisions, and agencies of the Government of the Commonwealth for fiscal year 1986-87 and fiscal year 1987-88, and to the extent in conflict therewith the appropriation levels set forth in KRS Chapter 47 shall be read as conforming to the levels of appropriation hereby enacted.

11. No action shall be taken to alter or reorganize the current governing structure of public higher education in Kentucky which provides for institutional governing boards and a statewide coordinating agency.

12. There is hereby appropriated from the General Fund the sum of $100,000 in each fiscal year for the Legislative Education Planning Commission (**HB 282**).

13. There is appropriated from the General Fund in addition to the sums specified in Part I of this Act the sum of $22,400,000 in fiscal year 1988-89 and $30,700,000 in fiscal year 1989-90 to the Teachers' Retirement System for additional payment of employer contributions for local school district certified personnel, university personnel and Department of Education personnel.

14. There is appropriated from the General Fund the sum of $2,000,000 to the Department of Fish and Wildlife Resources as reimbursement for the funds transferred under Executive Order 88-432. This transfer shall be completed on July 1, 1988.

PART VII

STATE OFFICERS SALARIES

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government required the following action.

2. Notwithstanding the provisions of KRS 15.755, 15.765, 18A.355, 64.055, 64.480, and 64.485, the salaries of the various state officials for fiscal year 1989 shall be increased by two percent (2%) over fiscal year 1988.

3. For fiscal year 1990, salary increases for state officers shall be computed against the fiscal year 1989 adjusted base mandated in paragraph 2. above.

PART VIII

FUND TRANSFER

1. It is the finding of the General Assembly of the Commonwealth of Kentucky that the financial condition of state government requires the following action.

2. Notwithstanding the requirements of the statutes set forth below, there is hereby transferred from the agency and special funds enumerated below to the General Fund the following amounts in fiscal years 1988-89 and 1989-90.

	1988-89	1989-90
1. Kentucky Retirement Systems (KRS 61.580 and 16.565)	$ 1,600,000	$ 800,000

Notwithstanding KRS 61.565, the above amounts of the employer's share of General Fund deductions made for retirement contributions to the Kentucky Employees Retirement System and the State Police Retirement System shall be transferred to the General Fund.

2. Division of Plumbing (KRS 318.134, 318.136, 318.180)	$ 250,000	$ 250,000
3. Kentucky Law Enforcement Foundation Program Fund (KRS 15.430-500; 42.190; and 136.391)	$17,000,000	$5,000,000

The General Assembly hereby directs that monies to be transferred from the Kentucky Law Enforcement Foundation Program Fund to the credit of the General Fund, shall be done so at the beginning of each quarter in equal allotments, each fiscal year of the 1988-90 biennium.

4. Fire and Tornado Insurance Fund (KRS 45.100)		$2,000,000
5. Department of Insurance (KRS 304.2-300 and KRS 304.2-400)		$ 2,000,000
6. Department of Financial Institutions (KRS 287.485)		$ 1,400,000
7. Professional Firefighters Foundation Fund (KRS 94A.220)	$2,539,000	$8,000,000

The General Assembly hereby directs that monies to be transferred from the Professional Firefighters Foundation Program Fund to the credit of the General Fund shall be done so at the beginning of each quarter in equal allotments, each fiscal year of the 1988-89 biennium.

8. Commerce Cabinet/Office of the Secretary Economic Development Bond Repayments (KRS Chapter 47)		$ 1,000,000

PART IX

GENERAL FUND BUDGET REDUCTION PLAN

Pursuant to KRS 48.130, there is hereby established a General Fund Budget Reduction Plan for state government for fiscal year 1988-89 and fiscal year 1989-90. Direct services and obligations essential to the minimum level of constitutional functions are exempted from the requirements of this Plan.

A. In the event of a reduction (revenue shortfall) in the estimated General Fund revenue receipts of $3,277,889,600 for fiscal year 1988-89 and $3,442,357,500 for fiscal year 1989-90, the heads of the Executive, Judicial, and Legislative Branches shall implement reductions for their respective branches in the following sequence:

1. The Local Government Economic Assistance Fund shall be adjusted to equal revised estimates of receipts pursuant to KRS 42.450.

2. Funds available in the General Fund Surplus Account, created by KRS 48.700, shall be applied toward the revenue shortfall.

3. The appropriations to the Budget Reserve Trust Fund shall be applied.

4. Monies which accrue as a result of personnel vacancies and turnover, reduced debt service requirements,

operating expenses or equipment purchases shall be applied.

5. Transfer of excess or unbudgeted agency operating funds, excluding fiduciary funds or dedicated statutory funds.

6. If the actions outlined above are insufficient to eliminate the revenue shortfall, it is then the intent of the General Assembly that the governor of the Commonwealth of Kentucky be empowered to take other necessary actions to balance the budget.

The Committee on Appropriations and Revenue reported **HB 977**, with Committee Amendment No. 1 attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 977, AN ACT relating to revenue and taxation information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) The legislative research commission or a subcommittee thereof may require the finance cabinet, or the revenue cabinet, or both, to conduct tax and economic studies.

(2) The legislative research commission or a subcommittee thereof may require the transmittal of information generated by such studies to the commission or a subcommittee in such format as may most easily be utilized by the commission or subcommittee.

(3) Upon written request from the legislative research commission, signed by the director, or from a subcommittee, signed by the chairman, the finance cabinet and the revenue cabinet shall perform the studies required, produce the information required, and transmit the information in the format required to the commission or the subcommittee within the time frame set by the commission or subcommittee, unless an extension of time is granted by the commission or the subcommittee.

Section 2. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employe of the revenue cabinet, member of a county board of assessment appeals, property valuation administrator or employe thereof, or any other person, shall divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employe of the revenue cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal arrangements whereby the cabinet shall receive similar or useful information in return.

(3) *The secretary shall make available any information for official use only and on a confidential basis, with respect to individual taxpayers, to the legislative research commission upon written request of the director thereof, or to a subcommittee thereof upon written request of the chairman and cosigned by the director of the legislative research commission. The information shall be provided within the time frame specified in the request unless an extension is granted by the director of the legislative research commission.*

(4) Statistics of tax-paid gasoline gallonage reported monthly to the revenue cabinet by any licensee under the gasoline excise tax law may be made public by the cabinet.

(5)[~~(4)~~] Notwithstanding the above, information received from the internal revenue service shall not be made available to any other agency of state government, any county, any city, or any other state.

The Committee Amendment No. 1 to **HB 977** is as follows:

Amend printed copy of **HB 977** on page 3, lines 4 through 13, by deleting lines 4 through 13 in their entirety, by renumbering subsequent subsections to conform.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to **HB 365**, by Representative Northup:

Amend printed copy of **HB 365** on page 1, after line 9, by adding the following:

"Section 2. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the state board of education. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board of education.

(2) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by the state board of education for the certificates.

(3) Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the state board of education and shall measure communication skills, general knowledge, professional education concepts and knowledge in the specific teaching field of the applicant. The state board of education shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. In the event the teacher fails the tests, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the state board of education. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The department of education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers, and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employe or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. *The internship may be served in a public school or a nonpublic school which has been accredited by the state department of education or a national accrediting association.* Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning teacher program the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by state board of education regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. In the event that more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal

who holds certification as a principal. In unusual situations the superintendent of public instruction may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. In the event the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. *In the case of a nonpublic school, if the teacher training institution is unable to provide a member to serve on the beginning teacher committee, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.* The resource teacher shall be appointed by the department of education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the department of education for work done outside normal working hours. *In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the department of education.* Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:

(1) Teachers in the same school;

(2) Teachers in the same district; and

(3) Teachers in an adjacent school district.

The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the superintendent of public instruction shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the examinations as prescribed by the state board of education.

(9) In the event an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the regulations of the state board of education. The applicant shall remain eligible for the one (1) year certificate as provided in subsection (3) and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must re-establish eligibility by repeating and passing the testing program in effect for new teachers at that time.

(10) The state board of education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board of education for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula as approved by the state board of education, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed."

Floor Amendment No. 3 to Committee Substitute to **HB 452**, by Representative Johnson:

Amend printed copy of Committee Substitute to **HB 452** on page 7, line 22, to delete the word "*exclusively*"; and

On page 7, line 24, following the word "*supervision*" to add "*. Employes of jails who meet the qualifications of the justice cabinet may supervise juvenile as well as adult prisoners*"; and

On page 179, line 14, to delete the word "*exclusively*"; and

On page 179, line 16, following the word "*supervision*" to add "*. Employes of jails who meet the qualifications of the justice cabinet may supervise juvenile as well as adult prisoners*"

Floor Amendment No. 3 to **HB 655**, by Representative Keith:

Amend printed copy of **HB 655** on page 3, line 21, by inserting the following before the word "Whereas":

"KRS 157.622 is amended to read as follows:

The school facilities construction commission shall be governed by the following procedures in providing assistance to school districts for construction purposes:

(1) Upon receipt of the certified statements from the state board of education as required by KRS 157.620, the commission shall compute the unmet needs of all eligible districts as defined by KRS 157.615;

(2) Assistance to each eligible district shall be determined by computing the ratio of the available state funding to total unmet need statewide. Based on the computed ratio, an equivalent percentage of each eligible district's unmet need will be funded;

(3) Each eligible district which has otherwise complied with the provisions of KRS 157.615 and 157.620 shall be offered sufficient funding to finance construction of the portion of its unmet need computed by applying the ratio determined in subsection (2) of this section to the total unmet need of the district;

(4) *Any school district which received an offer of assistance from the school facilities construction commission in accordance with the provisions of KRS 157.620, that meets or exceeds the provisions required for participation as they applied in the first round of funding, shall be re-offered assistance in the second round of funding provided application is made by the board of education on or before April 15, 1988, in the same amount for the same priority projects.*

(5) The commission shall establish regulations whereby an eligible district which fails in any budget period to receive an allocation of state funds that is sufficient to fund the district's priority project or portions thereof may accumulate credit, subject to the availability of funds, for its unused state allocation for a period not to exceed four (4) years. Accumulation and retention of credit is contingent upon the transfer of available local revenue to the restricted construction account by June 30 of each year; and

(6)[~~(5)~~] All unused state allocations accumulated according to the provisions of subsection (3) of this section shall be reallocated by the commission. The reallocation shall follow the process and intent as set forth in this section with eligible districts being those districts which contribute unused state allocations to the reallocation account. Any district which has an unused state allocation after funding its first priority project in a biennium is not eligible for consideration for additional funds from the reallocation account. Any funding received and utilized from the reallocation account by a district shall equally reduce the credit as set forth in this section.

Section 3. To carry out the purposes of Section 2 of this Act, there is appropriated to the school facilities construction commission out of the General Fund in the State Treasury the sum of $1,109,700 for the 1988-89 fiscal year.

Section 4."

Floor Title Amendment to **HB 655**, by Representative Keith:

Amend printed copy of **HB 655** by amending the title by inserting before the word "and" the following: "and making an appropriation therefor".

Floor Amendment No. 3 to **HB 665**, by Representative Gray:

Amend printed copy of **HB 665** on page 29, after line 16 by adding the following:

"SECTION 14. A NEW SECTION OF KRS CHAPTER 363.510 to 363.850 IS CREATED TO READ AS FOLLOWS:

(1) Every container or pump from which motor fuel which contains at least one percent (1%) ethanol, methanol, or any combination of these is sold or dispensed shall be conspicuously, clearly, and distinctly labeled on each side which faces the motor vehicle, so as to be readily visible, with the words "gasohol" using block letters or numerals at least one and one-half (1 1/2) inches in height and one-quarter (1/4) inch in width.

(2) Any person who sells or delivers a petroleum product containing ethanol, methanol, or any combination of the two (2), to a person other than a retail consumer shall place on the written instrument evidencing the sale or delivery of the petroleum product the name of each alcohol, and the percentage by volume of each alcohol, contained in the petroleum product being sold or delivered. The name of each alcohol shall be specified in capital letters. The instrument evidencing the sale shall be delivered to the acquiring party before or at the time of the transfer of possession of the gasoline.

(3) The division of weights and measures shall enforce the labeling requirements of this Act. For this purpose, the division shall measure the alcohol content of motor fuel offered for sale in the state, at such intervals or according to such schedules as the director shall establish. The division also shall test motor fuel upon complaint from any member of the public. The director may issue regulations to establish technical requirements for the measurement of alcohols in motor fuels.

And on page 29, line 17, by deleting "14" and by adding in its place, "*15*".

Floor Amendment No. 4 to **HB 665**, by Representative Blevins:

Amend printed copy of **HB 665** on page 6, line 11, after the word "*mile*" by inserting the following: "*except that vehicles registered pursuant to this subsection which are operating without a load shall pay a weight distance tax computed at the rate of one and nine hundred and twenty-five one thousandths (1.925) cents per mile*"

Floor Amendment No. 5 to **HB 665**, by Representative Blevins:

Amend printed copy of **HB 665** on page 29, after line 21, by inserting the following:

"Section 15. KRS 189.222 is amended to read as follows:

(1) The secretary of the transportation cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of said secretary, the increased height, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase in the height, length or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by such vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. In no event shall the gross weight exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the transportation cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system

and which have been designated by the secretary of the transportation cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles [~~engaged exclusively in the transportation of farm or primary forestry products and~~] registered under KRS 186.050(4) or 186.050(9) shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(5) The secretary of the transportation cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the transportation cabinet by the contractor or subcontractor, agent or employe thereof.

(6) Notwithstanding any other provisions of this chapter, in no event may the secretary of the transportation cabinet authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimension and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds; provided, however, in the event any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, then the secretary of the transportation cabinet may by official order increase the maximum weights and dimensions but in no event shall said increased weights and dimensions exceed those set out in this section."

Floor Amendment No. 6 to **HB 665**, by Representative Worthington:

Amend printed copy of **HB 665** beginning on page 29, after line 16, by inserting in lieu thereof the following underlined language:

SECTION 14. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

For purposes of this ACT:

(1) "Licensed alcohol producer" means a distiller of fuel-grade alcohol whose principal place of business and facility for the production of fuel-grade alcohol are located within the state of Kentucky, and who is licensed pursuant to the terms and conditions prescribed in this ACT and KRS 138.210 and 138.221;

(2) "Cabinet" shall mean the Kentucky energy cabinet;

(3) "Fuel-grade alcohol" means ethyl alcohol which is:

(a) At least one hundred ninety-eight (198) proof;

(b) Denatured in accordance with legal requirements;

(c) Derived from corn, grain or renewable resources that is ground, fermented and distilled by a licensed alcohol producer;

(d) Suitable for use in gasoline-alcohol blends.

SECTION 15. A NEW SECTION OF KRS CHAPTER 247 IS CREATED TO READ AS FOLLOWS:

(1) (a) For the purpose of assuring adequate, economical, and stable supplies of fuel-grade alcohol for the use and benefits of the residents and motorists in this state; to preserve and stimulate the existing fuel-grade alcohol industry; to develop new markets for Kentucky agricultural commodities; to provide and adequate supply

of environmentally acceptable octane-enhancing fuel components to refiners and gasoline marketers; and to encourage the establishment and growth of new fuel-grade alcohol facilities, the cabinet shall establish and make available from the road fund a fuel-grade alcohol incentive to reimburse a portion of the production costs of licensed alcohol producers.

(b) The cabinet shall participate in reducing the production costs for fuel-grade alcohol by paying a fuel-grade alcohol incentive to licensed alcohol producers for fuel-grade alcohol sold to dealers or suppliers for resale in gasoline-alcohol blends. The fuel-grade alcohol incentive shall be in the amounts specified in subsection (1) (c) of this section. Any incentive shall be reduced by the same amount per gallon as any increase per gallon in the federal excise tax exemption for alcohol fuels to be effective on the date of any increase in the federal excise tax exemption.

(c) The fuel-grade alcohol incentive shall be paid to licensed alcohol producers according to the following schedule:

(i) Fifteen cents 15 per gallon of fuel-grade alcohol sold by a licensed alcohol producer during the period of July 1, 1988, through June 30, 1992;

(ii) The fuel grade alcohol incentive shall not apply to alcohol production from all sources in excess of twenty seven million (27,000,000) gallons per year and the maximum incentive for any one producer shall be limited to twenty million (20,000,000) gallons.

(iii) The fuel-grade alcohol incentive shall expire June 30, 1992;

(2) A producer of fuel-grade alcohol shall qualify for participation in the fuel-grade alcohol incentive specified in subsection (1) (c) of this section if it meets each of the the following criteria:

(a) The producer employs residents of this state at such facilities and represents that the employment will equal at least seventy-five percent (75%) of the total annual payroll costs of the facility;

(b) The producer purchases one hundred percent (100%) of its annual requirements for coal from within this state;

(c) The producer purchases on hundred (100%) of its requirements for corn and other grains from within this state;

(3) A licensed alcohol producer shall apply annually for participation in the fuel-grade alcohol incentive program established by this section. Application shall be made in the manner and on the forms required by administrative regulations promulgated by the cabinet pursuant of this section. Any application shall include representation that the applicant will meet the requirements of subsection (1) (d) of this section and an estimate of the annual production capacity of the producer's facility in gallons.

(4) The cabinet shall not authorize the participation of a licensed alcohol producer in the fuel-grade alcohol incentive program established by this section unless it has determined to its reasonable satisfaction that: the applicant owns or operates plant facilities which meet or will satisfy, during the annual participation period, the requirements of subsection (1) (d) of this section.

(5) Qualified participants in the fuel-grade alcohol incentive program established by this section shall submit monthly reports to the cabinet of all fuel-grade alcohol sales from its plant facilities occurring during the preceding month. Information required from the qualified participant by the cabinet when reporting fuel-grade alcohol sales shall include the following:

(a) Name and address of the dealer or supplier to whom fuel-grade alcohol was sold and the date and the invoice number for the sale;

(b) Total number of gallons of fuel-grade alcohol sold to each dealer or supplier;

(c) Other information relating to the production, or use of fuel-grade alcohol the cabinet may require.

(6) The cabinet shall determine from the information contained in the monthly reports required by subsection (4) of this section the number of gallons of fuel-grade alcohol eligible for the fuel-grade alcohol incentive for the month. The amount of the fuel-grade alcohol incentive for the month shall be determined by multiplying the number of eligible gallons sold by the appropriate amount prescribed in subsection (1) (c) of this section. The fuel-grade alcohol incentive determined according to the provisions of this Act shall be paid to the qualified participant within thirty (30) days of the filing of the qualified participant's monthly report. If it is determined,

after the qualified participant files its monthly report pursuant to subsection (4) of this section, that the qualified participant's previous report was inaccurate, and appropriate adjustment shall be made in the amount of the incentive payment made to that participant in the subsequent month.

(7) The cabinet shall promulgate administrative regulations as necessary to implement the provisions of this Act.

Floor Title Amendment to **HB 665**, by Representative Gray:

Amend printed copy of **HB 665** by deleting the title and substituting therefore the following:

"AN ACT relating to transportation and declaring an emergency."

Floor Amendment No. 7 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 29, line 17, after Section 14, add the following:

KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company, telephone company, telegraph company, commercial air carrier, air freight carrier, *every common or contract carrier by motor vehicle, and every taxicab company,* pipeline company, common carrier water transportation company, privately owned regulated sewer company, cable television company, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies, and taxicab companies, shall annually pay a tax on its operating property to the state and to the extent such property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of such taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The revenue cabinet shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not such operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by said cabinet, and shall, except as provided in subsection (4) of this section, allocate such assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of such assessment date. Provided, however, that in the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

(4)(a) The revenue cabinet shall likewise have sole power to value and assess all the property within the taxing jurisdiction of this Commonwealth of every passenger, sleeping, freight, and private car company, which is hereby defined as any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in or across this state or any part thereof, any kind of railroad car including but not necessarily limited to flat, tank, refrigerator, passenger, or similar type car, *every common or contract carrier by motor vehicle, and every taxicab company. Any other statute to the contrary notwithstanding, the revenue cabinet shall, in determining the proportion of the value of the rolling stock of every common carrier or contract carrier by motor vehicle, and every taxicab company, apportion the value of such property within the taxing jurisdiction of Kentucky according to the vehicle mileage performed in Kentucky by such common or contract carrier by motor vehicle, and every taxicab company. Notwithstanding the provisions of subsection (1) of this section,* [~~;~~] the cabinet shall not certify the assessment of the rolling stock of such companies to any county, city, or taxing district, but shall apportion and certify the operating property, other than rolling stock, to the counties, cities, and taxing districts where such property is located. On or before November

1, 1984, and each year thereafter, the revenue cabinet shall establish the state tax rate for rolling stock of private car lines based on average tax rate for tangible personal property except motor vehicles, within the Commonwealth subject to state, county, school and applicable city levy. The rolling stock of such companies shall be taxable for state purposes only and shall not be subject to taxation by a county, city, or other taxing district. *Motor vehicles subject to tax under this section shall be registered by the county clerk without the imposition and collection of ad valorem taxes. Such ad valorem taxes as are due on such motor vehicles shall be paid as provided by law.*

(b) The property of taxpayers within the meaning of paragraph (a) of this subsection shall likewise be classified as operating property, nonoperating tangible property, and nonoperating intangible property. The nonoperating intangible property of the companies within the meaning of this subsection which are within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes at the same rate as the intangible property of nonpublic service taxpayers.

Section 15. KRS 138.470 is amended to read as follows:

There is expressly exempted from the tax imposed by KRS 138.460:

(1) Motor vehicles sold to the United States, or to the Commonwealth of Kentucky or any of its political subdivisions;

(2) Motor vehicles sold to institutions of purely public charity and institutions of education not used or employed for gain by any person or corporation;

(3) Motor vehicles which have been previously registered and titled in any state or by the federal government when being sold or transferred to licensed motor vehicle dealers for resale. Such motor vehicles shall not be leased, rented or loaned to any person and must be held for resale only;

(4) Motor vehicles sold by or transferred from dealers registered and licensed in compliance with the provisions of KRS 186.070 and KRS 190.010 to 190.080 to nonresident members of the armed forces on duty in this Commonwealth under orders from the United States government;

(5) Commercial motor vehicles, excluding passenger vehicles having a seating capacity for nine (9) persons or less, owned by nonresident owners and used primarily in interstate commerce and based in a state other than Kentucky which are required to be registered in Kentucky by reason of operational requirements or fleet proration agreements and are registered pursuant to KRS 186.145;

(6) Motor vehicles previously registered in Kentucky, transferred between husband and wife or parent and child;

(7) Motor vehicles transferred when a business changes its name and no other transaction has taken place or an individual changes his or her name;

(8) Motor vehicles transferred to a corporation from a proprietorship, or from a corporation to a proprietorship, within six (6) months from the time that the business is incorporated or dissolved;

(9) Motor vehicles transferred by will, court order, or under the statutes covering descent and distribution of property;

(10) Motor vehicles transferred between a subsidiary corporation and its parent corporation when there is no consideration, or nominal consideration, or in sole consideration of the cancellation or surrender of stock;

(11) The interest of a partner in a motor vehicle when other interests are transferred to him;

(12) Motor vehicles repossessed by a secured party who has a security interest in effect at the time of repossession and a repossession affidavit as required by KRS 186.045(4). The repossessor must hold the vehicle for resale only and not for personal use unless he has previously paid the motor vehicle usage tax on said vehicle; and

(13) Motor vehicles transferred to an insurance company to settle a claim. Such vehicles shall be junked or held for resale only.

(14) Commercial motor vehicles registered in Kentucky pursuant to KRS 186.050(3) to (14) having a declared gross weight in excess of fifty-five thousand and one (55,001) pounds.

Section 16.

Floor Amendment No. 8 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 6, line 22, after the "." insert the following language:

"(6) Every shipper of freight through or within the Commonwealth shall be assessed a tax of one cent ($.01) per one hundred (100) pounds of freight transported by motor carrier."

On page 12, line 25 by removing the opening bracket from in front of the "(3)" and deleting the strikethroughs and placing the opening brackets in front of the word "Every" and after "(3)" by inserting the following language: *"In addition, every shipper and receiver of freight moving in or through the Commonwealth shall file a quarterly tax report at the same time as any report filed by licensees are required to be filed pursuant to subsection (1) of this Section. Such report shall include the shipper's name, permit number of carriers who service the shipper, origin and destination of shipments of ten thousand (10,000) pound or fifty percent (50%) of cube of forty (40) foot length or longer equipment and the tax required by KRS 138.660(6)."*

Floor Amendment No. 9 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 6, line 22, after the "." insert the following language: *"(6) Any motor carrier which pays any tax to any other state in retaliation to the taxes imposed by KRS 138.660(4) and (5) shall receive a credit against any taxes owed to the Commonwealth."*

Floor Amendment No. 10 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 12, line 14, after the "." insert the following language:

(3) The transportation cabinet shall audit all motor carriers registered or required to be registered in Kentucky for payment of appropriate state fuel taxes and weight-distance taxes at least once every four (4) years."

Floor Amendment No. 11 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 6, line 19, by deleting the new, underscored period (.) and adding the following language, *"or ending on the last day of the month in which the receipts from the tax imposed under the provisions of this subsection have reached a cumulative total of sixty-three million dollars ($63,000,000), which ever is earlier. All taxes collected pursuant to this subsection shall be set aside for payment of any court ordered refund relating to the imposition of the supplemental highway use tax. In the event the applications for tax refunds do not exceed the tax collected, the tax shall be refunded to the motor carrier based on the taxes paid by each carrier divided by the balance in said account as of June 30, 1990."*

Floor Amendment No. 12 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 29, line 17, after Section 14 insert the following language:

"KRS 189.390 is amended to read as follows:

(1) No operator of a vehicle upon a highway shall drive at a greater speed than is reasonable and prudent, having regard for the traffic and for the condition and use of the highway.

(2) Where no condition exists that requires lower speed for compliance with subsection (1) of this section, the speed of any vehicle not in excess of the limits specified in this section or established as hereinafter authorized shall be lawful, but any speed in excess of the limits specified in this section or established as hereinafter authorized shall be unlawful:

(a) For all vehicles other than [~~motor trucks, semitrailer trucks, or~~] motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any business or residential district *and fifty-five-(55)* [~~, sixty (60)~~] miles per hour in other locations *except where the speed limit has been posted at sixty-five (65) miles per hour* [~~during the daytime and fifty (50) miles per hour in other locations during the nighttime;~~]

(b) [~~For motor trucks and semitrailer trucks, thirty-five (35) miles per hour in any business or residential district, fifty (50) miles per hour in other locations;~~

~~(c)~~] For motor vehicles of five (5) horsepower or less, thirty-five (35) miles per hour in any location;

(c) [~~(d)~~] All vehicles, when using off-street parking facilities offered for public use whether publicly or privately owned, fifteen (15) miles per hour.

(3) Whenever the secretary of transportation shall determine upon the basis of an engineering and traffic investigation that any speed limit hereinbefore set forth is greater or less than is reasonable or safe under the conditions found to exist at any intersection or upon any part of a state highway within or without the corporate limits of a municipality, said secretary of transportation may determine and establish by official order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such other times as may be determined when appropriate signs giving notice thereof are erected at such intersection or part of the state highway. In no event, however, shall said secretary increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of *fifty-five (55)* [~~sixty (60)~~] miles per hour.

(4) (a) Whenever municipal authorities or the fiscal court of any county determine upon the basis of an engineering and traffic investigation that the speed permitted under subsection (2) of this section is greater or less than is reasonable or safe under the conditions found to exist, at any location within the municipality or unincorporated areas of such county, such municipal authority or fiscal court, subject to paragraph (b) of this subsection, shall determine and authorize by ordinance or order a reasonable and safe speed limit at such location which shall be effective at all times or during hours of daytime or nighttime, or at such times as may be determined when appropriate signs giving notice thereof are appropriately erected at such location. In no event, however, shall said municipal authority or fiscal court increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of *fifty-five (55)* [~~sixty (60)~~] miles per hour.

(b) Alteration of speed limits on state highways within a municipality by municipal authorities or within the unincorporated areas of counties by fiscal courts thereof shall not be effective until such alteration has been approved by the secretary of transportation. In no event shall said secretary approve any alteration which could increase any speed limit established by subsection (2) of this section so as to permit in any instance a speed limit in excess of *fifty-five (55)* [~~sixty (60)~~] miles per hour.

(c) Whenever the fiscal court of any county determines upon the basis of an engineering and traffic investigation and study that it is unsafe to park motor vehicles on or along any highway, other than a state highway, within the unincorporated areas of the county, or that in any business district the congestion of traffic justifies a reasonable limitation on the length of time any one (1) motor vehicle is permitted to park in such district so as to reduce such congestion, then the fiscal court may by order establish "no parking" areas on and along said highway, or limit the length of time any motor vehicle may be parked in any business district, which order or orders shall be effective at all times and during hours of daytime or nighttime and at such other times as may be determined when appropriate signs giving notice thereof are erected at such locations.

(d) Notwithstanding the other limitations in this subsection, the secretary of transportation may establish, by official order, reasonable and safe speed limits on *interstate highways and divided highways with four (4) or more lanes and fully controlled access and located in a non-urbanized area, a speed limit* [~~turnpikes and limited access state highways~~] not to exceed *sixty-five (65)* [~~seventy (70)~~] miles per hour, *except motor carriers required to pay taxes pursuant to KRS 138.660(4) and (5) shall not exceed fifty-five (55) miles per hour.*

(5) No person shall drive a motor vehicle at such a slow speed as to impede or block the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.

(6) In every charge for a violation of any speed limit specified in this section or established as herein authorized, the warrant or citation shall specify the speed at which the defendant is alleged to have driven, also the lawful speed limit applicable at the location where the violation is charged to have occurred.

(7) As used in this section, the following words and phrases shall have the meanings respectively ascribed

to them:

(a) "Business district," the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes which occupy 300 feet of frontage on one side or 300 feet collectively on both sides of the highway;

(b) "Residential district," the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is in the main improved with residences or residences and buildings in use for business;

(c) "State highway," a highway or street maintained by the department of highways;

(d) "Nighttime," the period from one-half (1/2) hour after sunset until one-half (1/2) hour before sunrise, and at such other periods as atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period; "daytime" means at any other period.

(8) The signs and notices which the fiscal court is authorized hereby to have erected shall be paid for by the fiscal court out of the county levy.

Section 15."

Floor Amendment No. 13 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 29, line 17, after Section 14, insert the following: "KRS 189.222 is amended to read as follows:

(1) The secretary of the transportation cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of said secretary, the increased height, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase in the height, length or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by such vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. In no event shall the gross weight exceed eighty thousand (80,000) pounds:

(e) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the transportation cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the transportation cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(5) The secretary of the transportation cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the transportation cabinet by the contractor or subcontractor, agent or employe thereof.

(6) Notwithstanding any other provisions of this chapter, in no event may the secretary of the transportation cabinet authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimension and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds; provided, however, in the event any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, then the secretary of the transportation cabinet may by official order increase the maximum weights and dimensions but in no event shall said increased weights and dimensions exceed those set out in this section.

(7) Any penalty imposed pursuant to a violation of this section shall be assessed against the shipper as well as the motor carrier.

Section 15."

Floor Amendment No. 14 to **HB 665**, by Representative Rapier:

Amend printed copy of **HB 665** on page 29, line 17, after "Section 14." insert the following language: "A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Every retailer of gasoline or special fuels located in this state and dispensing such fuels into vehicles subject to KRS 138.660, shall file quarterly reports with the department, on forms prescribed by the department, summarizing all such sales for the preceding calendar quarter. Such reports shall be accompanied by copies of all receipts, and shall be due by the end of each month succeeding the calendar quarter.

Section 15."

Floor Amendment No. 15 to **HB 665**, by Representative Little:

Amend printed copy of **HB 665** on page 6, line 9, after the word "*pounds*" by inserting the following language: "*, except those vehicles which are registered and being operated pursuant to KRS 177.9771,*" On page 6, line 16, after the word "*pounds*" by inserting the following language: "*, except those vehicles which are registered and being operated pursuant to KRS 177.9771,*"

On page 29, after line 16, by inserting the following language:

"Section 14. KRS 177.977 is amended to read as follows:

(1) The transportation cabinet shall publish a directory, including supporting maps and other documents, designating the official coal *and natural resource* road system in coal *and natural resource* impact and coal *and natural resource* producing counties which shall include all public highways, roads, bridges and streets over which quantities of coal *and natural resource* sufficient to significantly affect the condition and state of repair of such highways, roads, bridges and streets have been transported in the immediately preceding year. The cabinet shall further publish the total county mileage of the official coal *and natural resource* road system and the total ton-miles within each coal *and natural resource* impact and coal *and natural resource* producing county for said preceding year.

(2) Every person, producer or processor shipping or transporting coal *and natural resource* over the public highways, roads, bridges and streets, shall file with the transportation cabinet such information and at such intervals as the cabinet shall designate by regulation duly adopted for the purpose of identifying those highways, roads, and streets comprising the coal *and natural resource* road system and the quantities of coal *and natural resource* transported thereon, in order that the cabinet can accurately calculate total ton-miles within each coal *and natural resource* impact and coal *and natural resource* producing county. A copy of the information furnished to the natural resources and environmental protection cabinet pursuant to the permitting requirements of KRS Chapter 350 regarding public road transportation plan may, subject to its approval, be submitted to the transportation cabinet to satisfy the reporting requirements of this subsection and such transportation plan shall be annually updated to reflect in route changes.

Section 15. KRS 177.9771 is amended to read as follows:

(1) The "extended weight coal *and natural resource* haul road system" shall consist of public highways over which quantities of coal *as defined by KRS 143.010 and natural resource as defined by KRS 143A.010* in excess of fifty thousand (50,000) tons were transported by motor vehicles during the period from January 1, 1985, through December 31, 1985 and shall be updated annually thereafter.

(2) The secretary of the transportation cabinet shall by official order on or before November 1, of each year, certify such public highways or portions thereof, as fulfill the criteria in subsection (1) of this section, as the extended weight coal *and natural resource* haul road system.

(3) The total tons of coal *and natural resource* transported by motor vehicles over any public highway shall be determined from the official coal *and natural resource* road system transportation report required pursuant to KRS 177.977.

(4) Any vehicle when registered with a declared gross weight of eighty thousand (80,000) pounds and when transporting coal *and natural resource* over public highways which are part of the extended weight coal *and natural resource* haul road system or portions thereof, may be operated at the weights as set forth below in excess of the maximum gross weight prescribed in KRS 189.221 and 189.222 and any other maximum weight limitations on state or county maintained systems by entering into a cooperative agreement as provided in KRS 177.979 or by paying the corresponding decal fee as set forth below:

(a) A single unit truck having one (1) steering axle and two (2) axles in tandem shall be limited to a maximum gross weight of ninety thousand (90,000) pounds with a tolerance of five percent (5%), and pay a decal fee of one hundred sixty dollars ($160) annually;

(b) A single unit truck having one (1) steering axle and three (3) axles in tridem arrangement shall be limited to a maximum gross weight of one hundred thousand (100,000) pounds with a tolerance of five percent (5%), and pay a decal fee of two hundred sixty dollars ($260) annually;

(c) Tractor-semitrailer combinations with five (5) or more axles shall be limited to a maximum gross weight of one hundred twenty thousand (120,000) pounds with a tolerance of five percent (5%), and pay a decal fee of three hundred sixty dollars ($360) annually;

(d) Any motor carrier involved in the transportation of coal *and natural resource* which meets gross axle weights of twenty thousand (20,000) pounds per axle and twelve thousand (12,000) pounds for the steering axle may register in excess of eighty thousand (80,000) pounds by payment of eight hundred and forty dollars ($840) plus an additional decal fee of ten dollars ($10) per one thousand (1,000) pounds of registered weight above eighty thousand (80,000) pounds;

(e) For purposes of this section, KRS 177.979 and 189.230, and for purposes of the extended weight coal *and natural resource* haul system, the dimensional requirements of motor vehicles shall conform to all appropriate federal laws and regulations;

(f) The payment of the decal fee shall be in addition to any state registration fee, user fee or other decal fee, including the registration fee as specified in KRS 186.050(3);

(g) Motor vehicles used in the transportation of coal *and natural resource* under cooperative agreements pursuant to KRS 177.979 shall be exempt from the payment of the decal fee as set forth in this section and the registration fee as set forth in KRS 186.050(3) as long as the truck is driven over cooperative roads only while full. The transportation cabinet shall issue identifying license plates for those motor vehicles under cooperative agreements;

(h) All fees under this section shall be scheduled for payment and prorated pursuant to the provisions of KRS 186.051; and

(i) All revenues generated pursuant to this section shall be credited to a special account within the road fund called the "energy recovery road fund."

(5) Sixty percent (60%) of all energy recovery road funds shall be used by the department of highways for construction, maintenance, and repair of the state-maintained portion of the extended weight coal *and natural resource* haul road system.

(6) Forty percent (40%) of all energy recovery road funds shall be distributed to the fiscal court of those counties in which coal *and natural resource* is transported for the sole purpose of construction, maintenance and repair of the county-maintained portion of the extended weight coal *and natural resource* haul system. The distribution of funds to the counties shall be proportioned based on the miles of county roads on the extended weight coal *and natural resource* haul system in each county compared to the total mileage of county roads in the total extended weight coal *and natural resource* haul road system and the tons of coal *and natural resource* transported over county roads on the extended weight coal *and natural resource* haul system in each county compared to the total tons of coal *and natural resource* transported over county roads in the total extended weight coal *and natural resource* haul road system.

(7) Nothing in this section shall be construed or administered to jeopardize the receipt of federal funds for highway purposes and the secretary of transportation shall not act in any manner which shall jeopardize federal highway funds or funds to be received by the Commonwealth. In no event shall this section be construed to authorize any vehicle to operate on a federal interstate highway in excess of those limits prescribed in KRS 189.222. Likewise, nothing in this section shall be construed to prohibit the department of highways from providing for the public safety and convenience of the traveling public on the highway.

(8) As soon as practical after the report is prepared and published pursuant to KRS 177.977 for any calendar year after 1985, the secretary shall add to or delete from the extended weight coal *and natural resource* haul road system public highways or portions thereof based upon the criteria set out in this section. However, deletion of a public road or portion thereof from the extended weight coal *and natural resource* haul road system shall not affect the eligibility of such roads for highway funds or programs applicable to the extended weight coal *and natural resource* haul road system.

(9) A fiscal court or a governing body of a city of the first through fourth class or urban-county government may by resolution, make recommendation to the secretary of the transportation cabinet that certain roads or road segments in the county or corporate city limits pose inherent and definite hazards or special conditions and that the secretary shall meet with said fiscal court or local governing body and take into consideration their concerns before adding to or deleting from the extended weight coal *and natural resource* haul system.

(10) The secretary of the transportation cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as may be necessary to administer the provisions of this section. KRS 177.9772,

177.979 and 189.230.

Section 16. KRS 177.9772 is amended to read as follows:

Any motor vehicle transporting coal *and natural resource* in violation of the weight limits provided for by KRS 189.221 and 189.222 for which the extended weight users' tax has not been paid as evidenced by an affixed extended weight users' decal or which is not being operated in accordance with the provisions of a cooperative agreement shall be deemed in violation of KRS 177.9771. The secretary of the transportation cabinet may impound said vehicle until such time as the extended weight users' tax and all costs incurred in the impoundment and storage of the vehicle have been paid.

Section 17. KRS 177.978 is amended to read as follows:

(1) All revenues generated pursuant to KRS 177.990(4) and (5) and KRS 177.9771(4) and no other taxes or fees normally assessed on motor carriers shall be credited to a special account within the road fund called the "energy recovery road fund" and any additional funds obtained through state appropriation, gifts, grants and federal funds may be credited to the special account, and shall be used, in addition to those road funds normally used for said highways, exclusively by the transportation cabinet for those costs attendant to highway purposes for roads designated as part of the extended weight coal *and natural resource* haul road system. All funds in the account shall be carried forward at the end of each year.

(2) All funds credited to the "coal *and natural resource* recovery road fund" shall be transferred to the "energy recovery road fund."

Section 18. KRS 177.979 is amended to read as follows:

(1) Upon application the department of highways shall enter into cooperative agreements with any person engaged in the mining, processing, transporting or sale of coal *and natural resource* providing for the transportation of coal *and natural resource* in vehicles exceeding the maximum weight limits on the state-maintained system. Such cooperative agreements shall provide for an equitable apportionment of the incremental costs for design, maintenance, construction or reconstruction of those roads and bridges, except those roads and bridges which are part of the federal interstate highway system, resulting from the transportation of coal *and natural resource* by trucks transporting coal *and natural resource* in excess of the maximum weight limits on the state-maintained system and covered by the cooperative agreement. Nothing contained herein shall effect the continuing validity of any existing agreement.

(2) Notwithstanding KRS Chapter 143 the total tax contributions from any person entering into a cooperative agreement, as specified in this section, shall not exceed, in the aggregate, the sum of five thousand dollars ($5,000) per mile per year on those roads covered by the cooperative agreement, but shall equal a minimum of one thousand two hundred dollars ($1,200) per motor vehicle hauling coal *and natural resource* over those cooperative road segments over three (3) miles in length, but such contribution shall not exceed ten cents (10) per ton of coal *and natural resource* hauled on cooperative roads per year from an individual coal *and natural resource* operator unless otherwise agreed to by the operator. The transportation cabinet may allow any person, under the cooperative agreement, to provide for the design, approved maintenance, construction or reconstruction provided for in subsection (1) of this section in accordance with guidelines or standards prescribed by the cabinet. In the event any person exceeds his annual total tax contribution as authorized under a cooperative agreement, such person may petition the commissioner of vehicle regulation for a carry over for future years liability. All funds collected pursuant to this section shall be expended on those roads covered by the cooperative agreement.

(3) Notwithstanding any provision of KRS 177.976 to 177.981 or 186.057, the Commonwealth shall not be relieved of expending its normal routine maintenance on all roads covered by the cooperative agreements"; and

On page 29, line 17, renumber Section 14 as Section 19.

On page 29, line 20, after the "8." by deleting the "and".

On page 29, line 20, after "13" by inserting ", 14, 15, 16, 17, and 18".

Floor Amendment No. 16 to **HB 665**, by Representative Little:

Amend printed copy of **HB 665** on page 6, line 9, after the word "*pounds*" by inserting the following language: "*, except those vehicles which are registered and being operated pursuant to KRS 177.9771,*"

On page 6, line 16, after the word "*pounds*" by inserting the following language: "*, except those vehicles which are registered and being operated pursuant to KRS 177.9771,*"

Floor Amendment No. 17 to **HB 665**, by Representative Blevins:

Amend printed copy of **HB 665** on page 22, line 25, after the word "products" by inserting the following: "*including sawdust, chips, bark, slabs, and wood waste*" and by placing an opening bracket before the word "from" and a closing bracket after the word "area" and striking through the same, and after the word "mill" by placing a "," and by placing an opening bracket before the word "or" and a closing bracket after the word "other" and striking through the same;

On page 22, line 26, after the word "facility" by inserting the following: "*or site appropriate for disposal*" and after the word "such" by inserting the word "*destination*" and by placing an opening bracket before the word "mill" and on page 23, line 1, by placing a closing bracket after the word "facility" and striking through the same;

On page 23, line 1, by placing an opening bracket before the word "at" and a closing bracket after the word "point" and striking through the same;

On page 23, line 2, after the word "the" by inserting the following: "*point of origin*" and by placing brackets around the words "harvest area" and striking through the same;

On page 29, line 17, after the "14." by inserting the following:

"KRS 189.222 is amended to read as follows:

(1) The secretary of the transportation cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length and gross weight prescribed in KRS 189.221, if in the opinion of said secretary, the increased height, length and weight designated by him are justified by the strength, safety and durability of the designated highways, and said highways do not appear susceptible to unreasonable and unusual damage by reason of such increases and said secretary is authorized to establish reasonable classification of such roads and to fix a different maximum for each classification. Provided, however, that any increase in the height, length or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by such vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

(a) Height, thirteen and one-half (13 1/2) feet;

(b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet not to exceed two (2) trailers per truck tractor;

(c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; fifty thousand (50,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall any single axle in any arrangement exceed twenty thousand (20,000) pounds or six hundred (600) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds;

(d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. In no event shall the gross weight exceed eighty thousand (80,000) pounds;

(e) Truck tractor, semitrailer and trailer combinations and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the transportation cabinet by official order as safely allowing same.

(2) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the transportation cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(3) Vehicles engaged exclusively in the transportation of farm *products* or primary *forest* [~~forestry~~] products [~~and registered under KRS 186.050(4) or~~] *as defined in KRS* 186.050(9) shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(4) Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(5) The secretary of the transportation cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed or repaired under contract with the transportation cabinet by the contractor or subcontractor, agent or employe thereof.

(6) Notwithstanding any other provisions of this chapter, in no event may the secretary of the transportation cabinet authorize the operation of any motor vehicle or combination of motor vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimension and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. In no event shall the total gross weight of the vehicle and load exceed eighty thousand (80,000) pounds; provided, however, in the event any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, then the secretary of the transportation cabinet may by official order increase the maximum weights and dimensions but in no event shall said increased weights and dimensions exceed those set out in this section.

Section 15."

Floor Amendment No. 1 to **HB 695**, by Representative M. Brown:

Amend printed copy of **HB 695** on page 1, line 12, insert between the words *unlawful* and "*for*" the following: *in any city*; and

on page 1, line 18, delete the words: *or county*; and

on page 1, line 19, delete the word *shall* and insert in lieu thereof, the word *may*; and

on page 1, line 19, after the word *ordinances* insert the following: *reasonable standards and*; and

on page 2, line 2, after the word *Act* and before the period, insert the following: "*;and, prior to the demolition of any unfit or unsafe structure, the right to a hearing shall be afforded the property owner*".

Floor Amendment No. 1 to **HB 764**, by Representative Noe:

Amend printed copy of **HB 764** on page 45, after line 22, by adding the following:

"Section 19. KRS 161.550 is amended to read as follows:

(1) Beginning with July 1, 1976, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all members. The state shall, in addition to the above amount, provide an annual overmatch of three and one-fourth percent (3.25%) of total member salaries to discharge the system's unfunded obligations with interest assumed by the state. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.230 to 161.716. In the event an annual appropriation is in excess of these requirements, such excess funds shall, in the 1982-84 biennium, be retained by the system to be applied to any unfunded remaining costs as described in subsection (5) of KRS 161.155. When the earnings on investments of the retired teacher savings exceeds the actuarial assumed rate of interest, the board of trustees may allocate such excess earnings toward the funding of the state's obligation to match the July 1, 1984 increase in the member rate of contribution during the 1984-86 biennium. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system.

(2) Beginning with July 1, 1988, the state shall contribute annually to the retirement system a permanent amount equal to that contributed by all employes of local school districts *and the Kentucky valley educational cooperative* who are members of the retirement system. The state shall, in addition to the above amount, provide an annual overmatch of three and one-fourth percent (3.25%) of total salaries of the employes of local school districts who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts *and the Kentucky valley educational cooperative*, shall contribute annually to the retirement system a permanent amount equal to that contributed by its employes who are members of the retirement system plus an additional three and one-fourth percent (3.25%) of the total of salaries of its employes who are members of the retirement system to discharge the system's unfunded obligations with interest assumed by the state. Each employer, except local school districts *and the Kentucky valley educational cooperative*, shall remit the required employer contributions to the retirement system under the terms and conditions specified for member contributions under KRS 161.560. The state shall provide annual appropriations based upon estimated funds needed to meet the requirements of KRS 161.155 and 161.230 to 161.716. In the event an annual appropriation is less than the amount of these requirements, the state shall make up the deficit in the next biennium budget appropriation to the retirement system. State contributions to the retirement system are for the exclusive purpose of providing benefits to members and annuitants and such contributions shall be considered deferred compensation to the members.

Section 20. KRS 161.555 is amended to read as follows:

Each school district or institution *or the Kentucky valley educational cooperative* employing members of the teachers' retirement system in positions established under educational acts adopted by the federal congress and each regional cooperative organization referred to in KRS 161.220(4)(e), *except the Kentucky valley educational cooperative*, employing members of the teachers retirement system shall contribute to the teachers' retirement system under regulations established by the board of trustees, an amount equal to that contributed by the members so employed."

And on page 45, line 23, change "19" to "21".

Floor Amendment No. 1 to **HB 810**, by Representative Ark:

Amend printed copy of **HB 810** on page 1 by removing the brackets and strikethrough on lines 8 through 14;

On page 1, line 19 by deleting "*(3)*" and removing the strikethroughs and brackets around "(4)";

On page 2, line 1 by deleting "*(4)*" and removing the strikethroughs and brackets around "(5)";

On page 2, line 17 by deleting "*(5)*" and inserting in lieu thereof "*(6)*";

On page 4, line 5 by deleting "*(6)*" and inserting in lieu thereof "*(7)*";

On page 4, line 24 by deleting "*(7)*" and inserting in lieu thereof "*(8)*";

On page 5, line 2 by deleting "*(8)*" and inserting in lieu thereof "*(9)*"; and

On page 5, line 5 by deleting "*(9)*" and inserting in lieu thereof "*(10)*".

Floor Amendment No. 1 to **HB 833**, by Representative Gregory:

Amend printed copy of **HB 833** on page 7, by adding the following:

Section 2. KRS 121.990 is amended to read as follows:

(1) Any public service corporation engaged in business in this state, or any officer or agent of such corporation, or attorney or other person employed by such corporation, who willfully violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(2) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any state, county, city or district officer who, in his official capacity, is required by law to perform any duties peculiar to such corporation not common to the general public, or to supervise, regulate or control in any manner the affairs of such corporation, or to perform any duty in assessing the property of such corporation for taxes, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(3) Any corporation other than a public service corporation, or any officer or agent of such a corporation, or attorney or other person employed by such a corporation, who willfully violates any of the provisions of KRS 121.025 with respect to the nomination or election of any candidate other than those mentioned in subsection (2) of this section, shall be fined not more than one thousand dollars ($1,000), and, in the case of individuals, be imprisoned in the county jail for not more than one (1) year.

(4) Any attorney who willfully violates any of the provisions of KRS 121.025 or 121.045 shall, in addition to the penalties prescribed in subsections (1), (2), (3) and (7) of this section, be disbarred from the practice of law in this state, and the judgment of conviction shall so declare.

(5) Any corporation that willfully violates any of the provisions of subsection (1) of KRS 121.035 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(6) Any person who willfully violates any of the provisions of subsection (2) of KRS 121.035 shall, for each offense, be fined not less than two hundred and fifty dollars ($250) nor more than one thousand dollars ($1,000), and imprisoned in the county jail for not less than three (3) months nor more than one (1) year.

(7) Any person who willfully violates any of the provisions of KRS 121.045 shall be fined not more than ten thousand dollars ($10,000), and imprisoned in the county jail for not less than thirty (30) days nor more than one (1) year.

(8) Any person who willfully violates any of the provisions of KRS 121.055 shall be fined not more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(9) Any person who willfully violates any provision of KRS 121.110 to 121.200 shall be punishable by a fine not exceeding one thousand dollars ($1,000) or by imprisonment for not more than one (1) year, or both. Violations shall include but shall not be limited to any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified, *but no penalty shall be applicable to any city officer serving on the effective date of this Act and shall only be applicable to candidates for city* *office and those city officers elected after January 1, 1989*;

(b) Making any false statement or report;

(c) Giving money under a fictitious name; or

(d) Making any communication to support or defeat a candidate without identification of sponsorship.

(10) The nomination for, or election to, an office of any candidate who willfully violates any provision of KRS 121.110 to 121.200, or whose campaign treasurer wilfully violates any provision of KRS 121.110 to 121.200, with such candidate's knowledge, shall be void, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the attorney general, or any candidate for the office sought to be declared vacant, or any qualified voter.

(11) The attorney general, commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.110 to 121.200.

(12) The commonwealth's attorney for the county in which the candidate resides shall be the chief prosecutor upon receipt of a written request from the registry, shall prosecute any violator under this chapter, and in the event he fails or refuses to prosecute a violator, upon written request from the registry, the attorney general shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(13) Any officeholder who willfully violates the provisions of KRS 121.150(7) shall be subject to removal from office by impeachment.

(14) Prosecution for violation of any provision of KRS 121.110 to 121.200, shall not be commenced after four (4) years have elapsed from the date of the violation. In the event the violator is an officeholder, the statute of limitations shall not run until one (1) year following expiration of his current term of office.

(15) Any person who willfully violates any of the provisions of subsection (1) of KRS 121.310 shall be fined not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5,000), or imprisoned in the county jail for not more than six (6) months, or both.

(16) Any corporation that willfully violates any of the provisions of subsection (2) of KRS 121.310 shall be fined not less than five hundred dollars ($500) nor more than five thousand dollars ($5,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(17) Any person who willfully violates any of the provisions of KRS 121.320 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500), or imprisoned in the county jail for not less than ten (10) days nor more than thirty (30) days, or both.

Floor Amendment No. 1 to **HB 875**, by Representative Cline:

Amend printed copy of **HB 875** on page 8, line 22, by deleting "*ten (10)*" and replacing it with "*eleven (11)*"; and

On page 10, line 23, by replacing "*ten (10)*" with "*eleven (11)*"; and

On page 11, line 5, after "*industry,*" by adding: "*one (1) representative of the Kentucky forest products industry,*"; and

On page 11, line 17, by replacing "*three (3)*" with "*four (4)*".

Floor Amendment No. 2 to **HB 935**, by Representative Meyer:

Amend printed copy of **HB 935** on page 2, line 23, by inserting after the word "*improvements*" and before the semi-colon the following language:

"and the financing thereof (whether bonds, assessments, tap-ins or user fees or any combination thereof) except those of an emergency nature or those necessary for compliance with applicable government regulations including environmental protection authorities, state and federal"; and

on page 7, line 17, by deleting the word *commission* and substituting the word "*commissioner*".

Floor Amendment No. 1 to **SB 201**, by Representative Stumbo:

Amend printed copy of GA Copy of **SB 201** on page 2, after line 10, by adding the following:

Section 2. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasi-public and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city *or a county*, who owns, controls or operates or manages any facility used or to be used for or in connection with:

(a) The generation, production, transmission or distribution of electricity to or for the public, for compensation, for lights, heat, power or other uses;

(b) The production, manufacture, storage, distribution, sale or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power or other uses;

(c) The transporting or conveying of gas, crude oil or other fluid substance by pipeline to or for the public, for compensation;

(d) The diverting, developing, pumping, impounding, distributing or furnishing of water to or for the public, for compensation;

(e) The transmission or conveyance over wire, in air or otherwise, of any message by telephone or telegraph for the public, for compensation; or

(f) The treatment of sewage for the public, for compensation, if the facility is a subdivision treatment facility plant, located in a county containing a city of the first class or a sewage treatment facility located in any other county and is not subject to regulation by a metropolitan sewer district;

(4) "Retail electric supplier" means any person, firm, corporation, association or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station

source;

(9) "Facility" includes all property, means and instrumentalities owned, operated, leased, licensed, used, furnished or supplied for, by, or in connection with the business of any utility;

(10) "Rate" means any individual or joint fare, toll, charge, rental or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement or privilege in any way relating to such fare, toll, charge, rental or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(11) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure and quantity of water, and in general the quality, quantity and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(12) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such customers of reasonable continuity of service;

(13) "Commission" means the public service commission of Kentucky;

(14) "Commissioner" means one (1) of the members of the commission.

Floor Amendment No. 2 to **SB 201**, by Representative Mason:

Amend printed copy of GA Copy of **SB 201** on page 2 after line 10, by adding the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 278 is created to read as follows:

(1) The general assembly finds that non-profit volunteer fire departments are vital to the health, safety, prosperity and security of the people of the Commonwealth, that the high cost of operation is a matter of public concern, as set out in KRS 17.210, and that volunteer fire departments should not be charged more than necessary for the utility services they need to perform their function.

(2) Every public utility which serves a volunteer fire department, fire protection district or other entity eligible for aid under KRS 17,250 shall supply such service at the lowest rate available under its tariffs to customers whose average monthly quantity of use is comparable to that of volunteer fire departments, and shall include volunteer fire departments within the service classification which applies to those customers."

Floor Amendment No. 1 to Committee Substitute to **HB 908**, by Representative Lear:

Amend printed copy of Committee Substitute to **HB 908** on page 2, line 12, by adding after the phrase "KRS 243.550 to 243.590.", the following:

"Section 2. KRS 243.050 is amended to read as follows:

(1) The department may issue a railroad system license to a railroad company upon the payment of a fee of one thousand dollars ($1,000). This license tax shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages.

(2) The department may issue a commercial airlines system license to a commercial airlines system or charter flight system upon the payment of a fee of $1,000. This license fee shall be in lieu of all license and excise taxes which would otherwise be due by the holder in connection with the retailing of alcoholic beverages and the license may be renewed annually for a fee of $1,000. The license shall authorize the licensee to sell distilled spirits and wine by the drink and by miniature bottle, and malt beverages, upon regularly scheduled or charter flights of the licensee, into and out of the state of Kentucky. The license shall authorize the licensee to store alcoholic beverages for retail sale at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application.

(3) The department may issue a transporter's license to a commercial airline system, a charter flight system, or a commercial cargo system, upon the payment of $100. This license may be renewed annually for a fee of $100. The license shall authorize the licensee to transport distilled spirits and wine and malt beverages, into and out of the state of Kentucky, upon regularly scheduled or charter flights of the licensee. The license shall authorize, for the purpose of transportation, the storage of alcoholic beverages at a location or locations, if operating from more than one airport in Kentucky, as designated on the license application. This license shall authorize an airline to transport if both the consignor and consignee in each case are authorized by the laws of the states of their residence to sell, purchase, ship or receive the alcoholic beverages.

(4) Where it is determined by the department to be in the best interest of promoting tourism, conventions and the economic development of Kentucky or any part thereof, the department may issue a supplemental license for the retail sale of alcoholic beverages by the drink at convention centers, at horse race tracks licensed to conduct a race meeting under KRS Chapter 230, and at commercial airports through which more than five hundred thousand (500,000) passengers arrive or depart annually. Upon application by the holder of a retail alcoholic beverage license at a convention center, horse race track or commercial airport as provided above, the department may establish the days when the supplemental license will be valid at the specific location, including Sundays after 1 p.m. The supplemental license fee shall be one thousand dollars ($1,000) per year and shall be in addition to all other licenses and fees due by the holder in connection with the retailing of alcoholic beverages. The department may by regulation or special conditions of the supplemental permit establish such restrictions on the use of the license as will insure that it will be primarily for the benefit of the convention center business, the horse racing industry, and passengers at large commercial airports. [~~Provided, however, that no provision of this subsection shall apply to any portion of a county containing an urban county government.~~

Section 3. KRS 244.480 is amended to read as follows:

(1) Except as provided in subsection (2), no brewer or distributor shall deliver any malt beverages on Sunday or between the hours of 7 p.m. and 6 a.m. on any week day except Saturday, when the hours of deliveries shall be between 6 a.m. and midnight. No retailer shall sell, give away or deliver any malt beverages between midnight and 6 a.m. or at any time during the twenty-four (24) hours of a Sunday or during the hours the polls are open on an election day.

(2) The legislative body of a city of the first, second, third or fourth class in which traffic in malt beverages is permitted by KRS Chapter 242, shall have the exclusive power, subject to subsection (3), by ordinance, to establish the times in which malt beverages may be sold within its jurisdictional boundaries. The fiscal court of each county in which a city of the first, second, third or fourth class is located shall have the exclusive power, subject to subsection (3), to establish the times in which malt beverages may be sold in that portion of the county which lies without the corporate limits of such a city, except any portion in which malt beverages are prohibited by KRS Chapter 242 from being sold.

(3) Notwithstanding subsections (1) and (2):

(a) The hours so fixed by the legislative body of a city of the first, second or third class, and by fiscal courts, shall not prohibit the sale, gift or delivery of any malt beverages between 6 a.m. and midnight during week days; and

(b) No malt beverages shall be sold on any election day while the polls are still open*; and*

(c) In any county containing a city of the first or second class or in any city located therein or in any county containing an urban county government, in which limited sale of distilled spirits and wine by the drink on Sunday is permitted under KRS 244.290(3) or 244.295(3), the respective legislative body of such areas shall have the power by duly enacted ordinance, to permit the sale of malt beverages by the drink on Sunday from 1 p.m. until a closing hour specified in the ordinance, by hotels, motels, and restaurants which are licensed for the retail sale of malt beverages and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross annual income from their dining facilities by the sale of food. A special Sunday malt beverage retailer's license by the drink may be issued by the legislative body, provided that the total cost for such license and for a regular malt beverage retailer's license shall not exceed twice the amount of the fee imposed in KRS 243.040(3) in the case of counties or urban county governments pursuant to KRS 243.060(1) and shall not exceed Two Hundred Dollars ($200.00) in the case of cities pursuant to KRS 243.070."

"Section 4. KRS 243.060 is amended to read as follows:

(1) The fiscal court of each county in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to distilled spirits and wine retail package licenses, distilled spirits and wine retail drink licenses, restaurant wine licenses, [~~and~~] malt beverage retailers' licenses *and such other special licenses as the state board has provided for by regulation.* The license fees shall not exceed twice the amount of the fees imposed in KRS 243.030 and 243.040 *or by regulation* for such licenses except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300).

(2) Any amount paid to any city within the county as a license fee for the same privilege for the same year may be credited against the county license fee.

(3) If any part of this section is held invalid, all of this section and of KRS 243.600 shall also be considered invalid.

Section 5. KRS 243.070 is amended to read as follows:

The city legislative body of any city in which traffic in alcoholic beverages is not prohibited under KRS Chapter 242 may impose license fees for the privilege of manufacturing and trafficking in alcoholic beverages. Only such licenses may be issued as correspond, in their provisions and the business authorized, to the licenses provided for in subsections (1), (2), (3), (6), (7), (8), (16), (17), (18) and (19) of KRS 243.030, [~~and~~] subsections (1), (2), (3), (4) and (7) of KRS 243.040 *and such other special licenses as the state board has provided for by regulation.* The fees imposed shall not exceed twice the amount of the fees imposed in KRS 243.030 and 243.040 *or by regulation* for such licenses, except that the fee for a Sunday distilled spirits and wine retail drink license shall not exceed three hundred dollars ($300), the fee for a malt beverage retailer's license may be fixed at not exceeding two hundred dollars ($200), the fee for a brewer's license shall not exceed five hundred dollars ($500), and the fee for a distiller's license shall not exceed five hundred dollars ($500).

The Clerk announced the following meetings:

Majority Caucus, March 15, 1988, Room 109, upon adjournment.

The Committee on Labor and Industry, March 15, 1988, 8:30 a.m., Room 104.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Tuesday, March 15, 1988.

The motion that the House adjourn until 2:00 p.m., Tuesday, March 15, 1988 was adopted by voice vote.

TUESDAY, MARCH 15, 1988

FORTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Brother Joe Adams, Bardstown, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 14, 1988 be dispensed with and the same approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 300, SCR 83.**

Cities: **SB 245.**

Education: **SB 256.**

Health and Welfare: **SB 308, SB 321.**

Judiciary-Civil: **SB 288, SB 304.**

Natural Resources and Environment: **SB 293.**

State Government: **SB 345.**

Transportation: **SB 147.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **HB 176, HB 959.**

Report of Committees

The Committee on Banking and Insurance reported **HB 587, HB 618, HB 1018,** and **SB 68** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 587, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 17 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Insurers delivering or issuing for delivery in Kentucky medicare supplement insurance policies as defined *in KRS 304.14-500 to 304.14-550, or renewing such policies, shall make available upon request medicare supplement insurance for persons not eligible for medicare by reason of age.*

SECTION 2. A NEW SECTION OF SUBTITLE 18 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Insurers delivering or issuing for delivery in Kentucky group medicare supplement insurance policies as defined in KRS 304.14-500 to 304.14-550, or renewing such policies, shall make available upon request of the group policyholder medicare supplement insurance for persons not eligible for medicare by reason or age.

SECTION 3. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Nonprofit hospital, medical-surgical, dental, and health service corporations delivering or issuing for delivery medicare supplement contracts as defined in KRS 304.14-500 to 304.14-550, or renewing such contracts, shall make available upon request medicare supplement coverage for persons not eligible for medicare by reason of age. In the case of group contracts, the request shall be made by the group contract holder.

SECTION 4. A NEW SECTION OF SUBTITLE 38 OF CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Health maintenance organizations delivering or issuing for delivery in Kentucky medicare supplement contracts as defined in KRS 304.14-500 to 304.14-550, or renewing such contracts, shall make available upon request medicare supplement coverage for persons not eligible for medicare by reason of age. In the case of group contracts, the request shall be made by the group contract holder.

HB 618. AN ACT relating to medical and accident insurance for students enrolled in state-operated vocational schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

(1) The superintendent of public instruction is authorized to provide medical and accident insurance for students enrolled in the state vocational-technical schools and area vocational education centers. The department of education may enter into a contract or contracts with one (1) or more sureties or insurance companies or their agents to provide appropriate medical and accident insurance coverage and to provide group coverage to all students enrolled in state vocational-technical schools and area vocational education centers. The appropriate group coverage shall be issued by one (1) or more sureties or insurance companies authorized to transact business in this state, and such coverage shall be approved by the commissioner of insurance.

(2) The state board of education, upon the recommendation of the superintendent of public instruction, shall adopt administrative regulations to implement the medical and accident insurance program. The state board of education may fix the rate of fees for all secondary and post-secondary students and adults, the provisions of KRS 163.087 with respect to fees for secondary students notwithstanding, as it deems necessary to meet the expense in whole or in part for appropriate student medical and accident insurance.

(3) The limits of liability and other appropriate provisions for student medical and accident insurance authorized by this section shall be set by the state board of education.

HB 1018. AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-340 is amended to read as follows:

The declination or termination of a policy of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer or agent is prohibited if the declination or termination is:

(1) Based solely upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured;

(2) Based solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant;

(3) Based solely upon the age or location of the residence or property of the applicant or named insured[~~; unless such decision is for a business purpose which is not a mere pretext for unfair discrimination~~];

(4) Based solely upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured; or

(5) Based solely upon the fact that the applicant or named insured previously obtained insurance through a residual market mechanism.

SB 68, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.39-320 is amended to read as follows:

(1) As used in this section: "underinsured motorist" means a party with motor vehicle liability insurance coverage in an amount less then a judgment recovered against that party for damages on account of injury due to a motor vehicle accident.

(2) Every insurer shall make available upon request to its insureds underinsured motorist coverage, whereby subject to the terms and conditions of such coverage *not inconsistent with this section* the insurance company agrees to pay its own insured for such uncompensated damages as he may recover on account of injury due to a motor vehicle accident because the judgment recovered against the owner of the other vehicle exceeds the *liability* policy limits thereon, to the extent of the *underinsurance* policy limits on the vehicle of the party recovering [~~less the amount paid by the liability insurer of the party recovered against~~]. His insurance company shall be subrogated to any amounts it so pays, and upon payment shall have an assignment of the judgment against the other party to the extent of the money it pays.

The Committee Amendment No. 1 to **SB 68** is as follows:

Amend printed copy of **SB 68** on page 1, line 6 by inserting "*compensatory*" before "*damages*";

On page 1, line 13 by inserting "*compensatory*" before "damages".

The Committee on Education reported **HB 174, HB 224** with Committee Amendment attached thereto, **HB 566** with Committee Amendment attached thereto, **HB 606** with Committee Substitute attached thereto, **HB 716** with Committee Substitute attached thereto, **HB 928**, and **HB 939** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 174, AN ACT relating to higher education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The governing board of each public university shall develop regulations concerning athletic grants-in-aid to include the following:

(1) A one (1) year suspension of an athlete's athletic grant-in-aid upon his conviction for the illegal possession

or use of a controlled substance as defined in KRS 218A.010; and

(2) Permanent revocation of an athlete's athletic grant-in-aid upon his second conviction for the illegal possession or use of a controlled substance as defined in KRS 218A.010.

HB 224, AN ACT relating to the commission on the deaf and hearing impaired.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.505 is amended to read as follows:

The commission on the deaf and hearing impaired shall consist of one (1) *audiologist appointed by the governor from a list of three (3) submitted by the Kentucky speech and hearing association* [~~member of the house of representatives appointed by the speaker~~], one (1) *representative of the cabinet for human resources appointed by the cabinet secretary* [~~member of the senate appointed by the president pro tem~~], the secretary of *the education and humanities cabinet* [~~education~~] or his designee, the president of the Kentucky association of the deaf, the president of the Kentucky registry of interpreters for the deaf, and three (3) hearing impaired or deaf persons appointed by the governor from a list of six (6) nominated by the Kentucky association of the deaf and who shall be representative of all deaf and hearing impaired citizens of the Commonwealth. The commission thus constituted shall then appoint one (1) parent of a hearing impaired or deaf child, one (1) representative of a private organization providing consistent services to the deaf and hearing impaired, and one (1) member at large. The commission shall be authorized to fill any vacancy with a person having the qualifications to fill that position. State officials shall serve during their terms of office. The three (3) deaf or hearing impaired persons and the parent of a deaf or hearing impaired child and the representative of a private organization serving the deaf and hearing impaired shall serve three (3) years except that the first appointments shall be for terms of one (1) year for one (1) of these members, two (2) years for three (3) of these members, and three (3) years for one (1) of these members. All members of the commission shall receive twenty-five dollars ($25.00) per day for attending each meeting. Each commission member shall be reimbursed for his necessary travel and other expenses actually incurred in the discharge of his duties on the commission.

The Committee Amendment No. 1 to **HB 224** is as follows:

Amend printed copy of **HB 224** on page 2, line 17, after the "." insert the following: "*Any member of the commission on the deaf and hearing impaired as of the effective date of this Act shall serve until he resigns or until his term expires.*"

HB 566, AN ACT relating to state support for education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

There is hereby established the "ride to the center for the arts program fund" in the office of instruction in the department of education. The fund may receive state appropriations, gifts, grants, federal funds and tax receipts. Monies from the fund shall be disbursed for purposes specified in Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) To facilitate opportunities for statewide participation by public school children in the Commonwealth in educational experiences available through the Kentucky center for the arts, the office of instruction shall administer the ride to the center for the arts program. Monies from the ride to the center for the arts fund shall be used to provide matching funds to local school districts for the cost of transportation of students in grades 6, 7, 8 and 9 for the purpose of visiting the Kentucky center for the arts.

(2) Grants shall be in the amount equal to one-half (1/2) of the total transportation cost of such visit, as submitted by and certified to by the local district to the associate superintendent of the office of instruction or his designee.

(3) The associate superintendent of the office of instruction shall promulgate such rules and regulations as may be needed in the administration of the program and disbursement of monies from the fund.

The Committee Amendment No. 1 to **HB 566** is as follows:

Amend printed copy of **HB 566** on page 2, lines 5 and 6, by deleting "*associate superintendent of the office of instruction*" and insert "*state board of education*" in lieu thereof.

HB 606, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly that the state board of education and the local boards of education carry out the requirements of this Act in a diligent effort to eliminate abusive politics in the Commonwealth's system of education.

Section 2. KRS 156.090 is amended to read as follows:

(1) The state board of education, upon the recommendation of the superintendent of public instruction, shall publish bulletins containing information on the kinds and grades of certificates issued, the rules and regulations governing the issuance of each kind and grade of certificate, schools offering teacher-training courses, the renewal of certificates, the transfer of certificates to and from other states, the acceptance of credentials from institutions of other states, and such other information relating to the training and certification of teachers as it deems advisable.

(2) Effective August 1, 1988 and thereafter, the state board of education, upon the recommendation of the superintendent of public instruction, shall provide a statewide, current register of available certified personnel. The register shall be transmitted at least monthly to each local school district.

Section 3. KRS 156.132 is amended to read as follows:

(1) *For purposes of this section the definition of "misconduct in office" shall mean, but shall not be limited to, any violation of KRS Chapters 119 and 121.*

(2) The superintendent of public instruction or the state board of education shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher or other public school officer who in his or their opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty.

(3)[~~(2)~~] The superintendent of public instruction shall recommend by written charges the suspension by the state board of education of any district board member or superintendent of schools who in his opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty. The state board of education shall, after a summary hearing as provided by regulations, suspend any district board of education member or superintendent of schools, who in the opinion of the majority of the state board of education is guilty of immorality, misconduct in office, incompetence or wilful neglect of duty. Such action by the state board of education may be taken upon a recommendation of the superintendent of public instruction, or such action may be taken by a majority vote of the state board of education without recommendation from the superintendent of public instruction.

(4)[~~(3)~~] The state board of education may suspend a district superintendent of schools under subsection *(3)*[~~(2)~~] of this section only if after thirty (30) days of receipt of the written charges specified in subsection *(2)*[~~(1)~~] of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily or capriciously, or if a recommendation to the district board would have been futile.

Section 4. KRS 156.134 is amended to read as follows:

(1) Any officer suspended by the state board of education under subsection *(3)*[~~(2)~~] of KRS 156.132 shall

be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the state board of education to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of such charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the state board of education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the state board of education may remove the officer by a majority vote and such dismissal shall be final.

(2) Upon receipt of the officer's notice of intention to appear and answer such charges, the state board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the state board of education. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The state board of education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.

(3) Upon completion of both sides of the case, but within ninety (90) days from the date the officer was suspended, the state board of education may by a majority vote remove the officer. If within ninety (90) days from the date of suspension, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of such suspension.

(4) The officer shall have a right to appeal both as to law and to fact to the circuit court for trial without a jury. If said appeal is not made within thirty (30) days after removal, then the decision of the state board of education shall be final. Said appeal shall be an original action in said court and shall be commenced by the filing of a petition against the state board of education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in said appeal, the state board of education shall forthwith transmit to the clerk, of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing, whereupon the cause shall be at issue without further pleading and shall be advanced and heard with delay. The court shall examine the transcript and record of the hearing before the state board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition. Either the officer or the state board of education may appeal from the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. Such payment shall be made from funds appropriated to the state department of education.

Section 5. KRS 156.136 is amended to read as follows:

The state board of education, upon suspension of any officer or district board of education member under subsections *(3)*[~~(2)~~] and *(4)*[~~(3)~~] of KRS 156.132, shall name a person to fill the vacancy caused by such suspension. Persons appointed by the state board of education to fill vacancies under KRS 156.132 to 156.136 shall hold office only during the time an officer is suspended, not to exceed ninety (90) days from the date of suspension. At the expiration of such period, vacancies shall be filled in the manner provided by law for the office. Persons appointed by the state board of education to fill vacancies caused by suspension shall be paid from funds of the district board of education. Any person employed to fill the position of a superintendent who has been removed by the state board of education under KRS 156.132 shall be employed by the district board of education for a period not to exceed one (1) year if the superintendent has appealed to the courts and if the courts have not taken final action.

Section 6. KRS 158.690 is amended to read as follows:

The department shall develop and implement a statewide assessment program in accordance with the following:

(1) This program shall be for the purpose of measuring and reporting student progress and achievement in the basic skills in grades three (3), five (5), seven (7) and ten (10) and other product goal and competency areas as determined by the state board of education upon recommendation of the superintendent of public instruction;

(2) Appropriate tests shall be administered annually:

(3) Results of these tests shall be compiled on a statewide, district and school basis by the department and shall be reported to the governor, the state advisory committee for educational improvement, the legislative research commission, the state board of education, and local boards of education. The report of scores shall be the percent of students mastering each essential skill in each area by grade level. Local boards of education shall publish in the newspaper with the largest circulation in the county by October 1 of each year an annual performance report on district accomplishments and activities pertaining to product goals including, but not limited to, retention rates and student performance on basic and essential skills tests by grade level, the districts' goals for the succeeding year, *the names, positions and salaries of relatives of the superintendent and board members employed by the district* and other items as may be set forth in state board of education regulations. *For purposes of this subsection, relative shall mean parent, child, spouse, nephew, niece, aunt, uncle, son-in-law, daughter-in-law and first cousin*; and

(4) The results of these tests shall be used by local boards of education for the development of educational improvement plans and shall not be used for the evaluation of teachers or administrators for the purpose of promotion, demotion, transfer, or dismissal, nor for state ranking of school districts other than by grade level.

Section 7. KRS 160.160 is amended to read as follows:

Each school district shall be under the management and control of a board of education consisting of five (5) members, except in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished which shall have seven (7) members elected [~~from the divisions and~~] in the manner prescribed by KRS 160.210(5), to be known as the "board of education of ...., Kentucky." Each board of education shall be a body politic and corporate with perpetual succession. It may sue and be sued; make contracts; expend funds necessary for liability insurance premiums and for the defense of any civil action brought against an individual board member in his official or individual capacity, or both, on account of an act made in the scope and course of his performance of legal duties as a board member; purchase, receive, hold and sell property; issue its bonds to build and construct improvements; and do all things necessary to accomplish the purposes for which it is created. Each board of education shall elect a chairman and vice-chairman from its membership in a manner and for a term prescribed by the board not to exceed two (2) years.

Section 8. KRS 160.210 is amended to read as follows:

(1) In independent school districts, the members of the school board shall be elected from the district at large. In county school districts, members shall *represent* [~~be elected from~~] divisions, *but shall be elected by receiving the majority votes cast by the qualified voters of the county school district.*

(2) The board of education of each county school district shall, not later than July 1, 1940, divide its district into five (5) divisions containing integral voting precincts and as equal in population insofar as is practicable. In first dividing the county district into divisions the board shall, if more than one (1) of its members reside in one (1) division, determine by lot which member from that division shall represent that division, and which members shall represent the divisions in which no member resides. The members so determined to represent divisions in which no member resides shall be considered the members from those divisions until their terms expire, and thereafter the members from those divisions shall be nominated and elected as provided in KRS 160.200 and 160.220 to 160.250.

(3) Any changes made in division boundary lines shall be such as will make divisions as equal in population and containing integral voting precincts insofar as is practical. No change may be made in division boundary lines more frequently than five (5) years after the last change in any division lines, except in case of merger of districts or a change in territory due to annexation.

(4) (a) Notwithstanding the provisions of subsection (3) of this section, if one hundred (100) residents of a county school district division petition the state board of education stating that the school district divisions are not divided as nearly equal in population as can reasonably be expected, the superintendent of public instruction shall cause an investigation to determine the validity of the petition, said investigation to be completed within thirty (30) days after receipt of the petition.

(b) If the investigation reveals the school district to be unequally divided according to population, the state board of education, upon the recommendation of the superintendent of public instruction, shall order the local board of education to make such changes in school district divisions as are necessary to equalize population within the five (5) school divisions.

(c) If any board fails to comply with the order of the state board of education within thirty (30) days or prior to August 1 in any year in which any members of the board are to be elected, members shall be elected from the district at large until the order of the state board of education has been complied with.

(d) No change shall be made in the boundary of any division under the provisions of this subsection after August 1 in the year in which a member of the school board is to be elected from any division.

(5) Notwithstanding the provisions of subsection (2) of this section, in counties containing a city of the first class wherein a merger pursuant to KRS 160.041 shall have been accomplished, there shall be seven (7) divisions as equal in population as is practicable with members elected from divisions. To be eligible to be elected from a division, a candidate must reside in that division. The divisions, based upon 1970 United States Census Bureau Reports on total population by census tracts for Jefferson County, Kentucky shall be as follows: Division One shall include census tracts 1-28; Division Two shall include census tracts 29-35, 47-53, 57-74, 80-84. 93. 129, 130; Division Three shall include census tracts 75-79, 85-88, 98-106, 107.01, 108; Division Four shall include census tracts 121.01, 123-128; Division Five shall include census tracts 36-46, 56, 90, 120, 121.02. 122; Division Six shall include census tracts 54, 55. 91, 92, 94, 95, 110.02, 113, 114, 117.01, 117.02, 118, 119: Division Seven shall include census tracts 89, 96, 97, 107.02, 109, 110.01, 111, 112, 115, 116, 117.03, 131. 132. The terms of the members to be elected, KRS 160.044 not withstanding, shall be four (4) years and the election for the initial four (4) year terms shall be as follows: The election of the members from Divisions Two. Four and Seven shall be held at the next regular November election following the effective date of the merger pursuant to KRS 160.041, and the election of the members from Divisions One, Three, Five and Six shall be held at the regular November election two (2) years thereafter.

(6) In counties containing cities of the first class, responsibility for the establishment or the changing of school board division boundaries shall be with the local board of education, subject to the review and approval of the county board of elections. Where division and census tract boundaries do not coincide with existing election precinct boundaries, school board divisions shall be redrawn to comply with precinct boundaries. In no instance shall precinct boundaries be redrawn nor shall a precinct be divided to accommodate the drawing of school board division lines. Precinct boundaries nearest existing school board division boundaries shall become the new division boundary. All changes under this statute must be completed on or before January 1, 1979, and on or before January 1 in any succeeding year in which a member of the school board is to be elected from any division. A record of all changes in division lines shall be kept in the offices of the county board of education and the county board of elections. The board of education shall publish all changes pursuant to KRS Chapter 424. A copy of the newspaper in which the notice is published shall be filed with the superintendent of public instruction within ten (10) days following its publication.

Section 9. KRS 160.260 is amended to read as follows:

[~~(1) The voting in county districts shall be by divisions. Each voter shall vote for only one (1) candidate. The legally eligible candidate receiving the highest number of votes cast in his division shall be declared elected.~~

~~(2)~~] In independent school districts *and county school districts* each voter may vote for as many candidates as there are members to be elected *in his school district*, and the number of board members to be elected shall be indicated. The candidates, in number equal to the number of members to be chosen, who have the highest number of votes shall be declared elected.

Section 10. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the superintendent of public instruction and approved by the state board for elementary and secondary education, prepare and submit to the state board for elementary and secondary education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) [~~Personnel~~] Policies that *establish a personnel system for all employes that govern recruitment, appointment, promotion, transfer, lay-off, removal, evaluation, dismissal, suspension, reinstatement, salary schedules, fringe benefits, duties and any other matters related to personnel* [~~apply to certified employes, including fringe benefits, salary schedules, non-classroom duties, in-service training, teacher-student load, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion and demotion~~];

(f) [~~Evaluation of certified employes;~~

~~(g)~~] Selection of textbooks and instructional materials; and

(g)[~~(h)~~] Expenditure and accounting for school funds, including all special funds.

It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 thereafter and shall be public records.

Section 11. KRS 161.100 is amended to read as follows:

(1) When a district board of education satisfies the state board for elementary and secondary education that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the state board for elementary and secondary education may, on approval of the superintendent of public instruction, issue emergency certificates to persons who meet the qualifications determined by the state board for elementary and secondary education for emergency certificates. *The district board shall provide assurance to the state board that the register of available certified personnel as provided in KRS 156.090 has been used in the attempt to fill the vacancy.*

(2) An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The state board for elementary and secondary education may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the state department of education under the direction of the superintendent of public instruction, in accordance with rules and regulations approved by the state board for elementary and secondary education.

Section 12. KRS 161.162 is amended to read as follows:

(1) No teacher or employe of any district board of education shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or ethnic origin.

(2) No person including board members, shall use or promise to use, directly or indirectly, any official authority or influence to secure an appointment or advantage in appointment to a position in the school district, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) No employe in the school district or member of the board shall solicit for any political party.

(4) The superintendent, at least six (6) weeks prior to each election, shall notify each district employe of the requirements of this section.

The Committee Substitute to **HB 606** is as follows:

HB 606, AN ACT relating to school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

It is the intent of the general assembly that the state board of education and the local boards of education carry out the requirements of this Act in a diligent effort to eliminate abusive politics in the Commonwealth's system of education.

Section 2. KRS 156.090 is amended to read as follows:

(1) The state board of education, upon the recommendation of the superintendent of public instruction, shall publish bulletins containing information on the kinds and grades of certificates issued, the rules and regulations governing the issuance of each kind and grade of certificate, schools offering teacher-training courses, the renewal of certificates, the transfer of certificates to and from other states, the acceptance of credentials from institutions of other states, and such other information relating to the training and certification of teachers as it deems advisable.

(2) Effective August 1, 1988 and thereafter, the state board of education, upon the recommendation of the superintendent of public instruction, shall provide a statewide, current register of available certified personnel. The register shall be transmitted at least monthly to each local school district.

Section 3. KRS 156.132 is amended to read as follows:

(1) *For purposes of this section the definition of "misconduct in office" shall mean, but shall not be limited to, any violation of KRS Chapters 119 and 121.*

(2) The superintendent of public instruction or the state board of education shall recommend, by written charges to the proper school authorities having immediate jurisdiction, the removal of any superintendent of schools, principal, teacher or other public school officer who in his or their opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty.

(3)[~~(2)~~] The superintendent of public instruction shall recommend by written charges the suspension by the state board of education of any district board member or superintendent of schools who in his opinion is guilty of immorality, misconduct in office, incompetency or wilful neglect of duty. The state board of education shall, after a summary hearing as provided by regulations, suspend any district board of education member or superintendent of schools, who in the opinion of the majority of the state board of education is guilty of immorality, misconduct in office, incompetence or wilful neglect of duty. Such action by the state board of education may be taken upon a recommendation of the superintendent of public instruction, or such action may be taken by a majority vote of the state board of education without recommendation from the superintendent of public instruction.

(4)[~~(3)~~] The state board of education may suspend a district superintendent of schools under subsection *(3)*[~~(2)~~] of this section only if after thirty (30) days of receipt of the written charges specified in subsection *(2)*[~~(1)~~] of this section, the district board of education has refused to act, has acted in bad faith, arbitrarily or capriciously, or if a recommendation to the district board would have been futile.

Section 4. KRS 156.134 is amended to read as follows:

(1) Any officer suspended by the state board of education under subsection *(3)*[~~(2)~~] of KRS 156.132 shall be furnished with a written statement, specifying in detail the reasons for suspension and naming a date and place at which the officer may appear before the state board of education to answer the charges. The date shall be not less than twenty (20) nor more than thirty (30) days after the service of such charges upon the officer. Within ten (10) days after receipt of the charges, the officer may notify the state board of education of his intention to appear and answer such charges. If the officer fails to notify the board of his intention to appear and answer such charges, the state board of education may remove the officer by a majority vote and such dismissal shall be final.

(2) Upon receipt of the officer's notice of intention to appear and answer such charges, the state board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issues shall be heard at the time and place set and the hearing shall be public or private at the discretion of the state board of education. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath before an officer of the board. The state board of education shall provide for a stenographic report of the proceedings and furnish the officer with a copy.

(3) Upon completion of both sides of the case, but within ninety (90) days from the date the officer was suspended, the state board of education may by a majority vote remove the officer. If within ninety (90) days from the date of suspension, the state board has not removed the officer, or has dismissed the charges, the suspended officer shall be reinstated and shall be paid his full salary for the period of such suspension.

(4) The officer shall have a right to appeal both as to law and to fact to the circuit court for trial without a jury. If said appeal is not made within thirty (30) days after removal, then the decision of the state board of education shall be final. Said appeal shall be an original action in said court and shall be commenced by the filing of a petition against the state board of education, in which petition the facts shall be alleged upon which the officer relies for a reversal or modification of the order of removal. Upon service or waiver of summons in said appeal, the state board of education shall forthwith transmit to the clerk, of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing, whereupon the cause shall be at issue without further pleading and shall be advanced and heard with delay. The court shall examine the transcript and record of the hearing before the state board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition. Either the officer or the state board of education may appeal from the action of the court to the Court of Appeals. If the decision of the court is against removal, the officer shall be paid his full salary from the date of suspension. Such payment shall be made from funds appropriated to the state department of education.

Section 5. KRS 156.136 is amended to read as follows:

The state board of education, upon suspension of any officer or district board of education member under subsections *(3)*[~~(2)~~] and *(4)*[~~(3)~~] of KRS 156.132, shall name a person to fill the vacancy caused by such suspension. Persons appointed by the state board of education to fill vacancies under KRS 156.132 to 156.136 shall hold office only during the time an officer is suspended, not to exceed ninety (90) days from the date of suspension. At the expiration of such period, vacancies shall be filled in the manner provided by law for the office. Persons appointed by the state board of education to fill vacancies caused by suspension shall be paid from funds of the district board of education. Any person employed to fill the position of a superintendent who has been removed by the state board of education under KRS 156.132 shall be employed by the district board of education for a period not to exceed one (1) year if the superintendent has appealed to the courts and if the courts have not taken final action.

Section 6. KRS 158.690 is amended to read as follows:

The department shall develop and implement a statewide assessment program in accordance with the following:

(1) This program shall be for the purpose of measuring and reporting student progress and achievement in the basic skills in grades three (3), five (5), seven (7) and ten (10) and other product goal and competency areas as determined by the state board of education upon recommendation of the superintendent of public instruction;

(2) Appropriate tests shall be administered annually;

(3) Results of these tests shall be compiled on a statewide, district and school basis by the department and shall be reported to the governor, the state advisory committee for educational improvement, the legislative research commission, the state board of education, and local boards of education. The report of scores shall be the percent of students mastering each essential skill in each area by grade level. Local boards of education shall publish in the newspaper with the largest circulation in the county by October 1 of each year an annual performance report on district accomplishments and activities pertaining to product goals including, but not limited to, retention rates and student performance on basic and essential skills tests by grade level, the

districts' goals for the succeeding year, *the names, positions and salaries of relatives of the superintendent and board members employed by the district* and other items as may be set forth in state board of education regulations. *For purposes of this subsection, relative shall mean parent, child, spouse, nephew, niece, aunt, uncle, son-in-law, daughter-in-law and first cousin*; and

(4) The results of these tests shall be used by local boards of education for the development of educational improvement plans and shall not be used for the evaluation of teachers or administrators for the purpose of promotion, demotion, transfer, or dismissal, nor for state ranking of school districts other than by grade level.

Section 7. KRS 160.340 is amended to read as follows:

(1) Each board of education shall, on the forms prepared by the superintendent of public instruction and approved by the state board for elementary and secondary education, prepare and submit to the state board for elementary and secondary education reports on all phases of its school service. Each board may prepare and publish for the information of the public a report on the progress of its schools.

(2) Each board of education shall file in the board's office its policies relating to the following matters:

(a) Transportation of pupils;

(b) Discipline and conduct of pupils;

(c) Limitations or restrictions on use of school facilities;

(d) Conduct of meetings of the board of education, including policies on the calling of executive sessions;

(e) [~~Personnel~~] Policies that *establish a personnel system for all employes that govern recruitment, appointment, promotion, transfer, lay-off, removal, evaluation, dismissal, suspension, reinstatement, salary schedules, fringe benefits, duties and any other matters related to personnel* [~~apply to certified employes, including fringe benefits, salary schedules, non-classroom duties, in-service training, teacher-student load, hiring, assignment, transfer, dismissal, suspension, reinstatement, promotion and demotion~~];

(f) [~~Evaluation of certified employes;~~

~~(g)~~] Selection of textbooks and instructional materials; and

(g)[~~(h)~~] Expenditure and accounting for school funds, including all special funds.

It is intended that these policies shall cover matters within the authority and discretion of the district board of education and not matters otherwise required by law or regulation. Such policies shall be filed in the board's office by August 15, 1974, shall be kept up to date by filing annual amendments thereto each August 15 thereafter and shall be public records.

Section 8. KRS 161.100 is amended to read as follows:

(1) When a district board of education satisfies the state board for elementary and secondary education that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the state board for elementary and secondary education may, on approval of the superintendent of public instruction, issue emergency certificates to persons who meet the qualifications determined by the state board for elementary and secondary education for emergency certificates. *The district board shall provide assurance to the state board that the register of available certified personnel as provided in KRS 156.090 has been used in the attempt to fill the vacancy.*

(2) An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The state board for elementary and secondary education may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the state department of education under the direction of the superintendent of public instruction, in accordance with rules and regulations approved by the state board for elementary and

secondary education.

Section 9. KRS 161.162 is amended to read as follows:

(1) No teacher or employe of any district board of education shall be appointed or promoted to, or demoted or dismissed from, any position or in any way favored or discriminated against with respect to employment because of his political or religious opinions or affiliations or ethnic origin.

(2) No person including board members, shall use or promise to use, directly or indirectly, any official authority or influence to secure an appointment or advantage in appointment to a position in the school district, or an increase in pay or other advantage in employment in any such position, for the purpose of influencing the vote or political action of any person.

(3) The superintendent, at least six (6) weeks prior to each election, shall notify each district employe of the requirements of this section.

Section 10. KRS 158.685 is amended to read as follows:

(1) The state board of education shall establish standards which school districts shall meet in program, [~~and~~] service *and operational performance* [~~offerings~~] and set forth the minimum performance for students in attaining competencies in the essential skills pursuant to KRS 158.660.

(2) The state board of education shall declare a school district to be educationally deficient when, in any school year, the district fails to meet or make satisfactory progress toward meeting minimum program, [~~and~~] service *and operational performance* standards or an insufficient number of students, as defined by state board of education regulations, fail to attain or fail to make satisfactory progress toward attaining minimum competency in the essential skills standards established pursuant to subsection (1) of this section.

(3) The superintendent of public instruction, upon approval of the state board of education, shall provide consultation and assistance to any school district which has been declared educationally deficient by the state board of education in eliminating the deficiency. The school districts shall be provided consultation and guidance relative to programs, services, finances, personnel, and any other areas wherein appropriate changes would be reasonably calculated to eliminate or alleviate the deficiency and in developing and implementing an educational improvement plan pursuant to KRS 158.710. Such changes, whenever allowable under Kentucky Revised Statutes, may include more expeditious correction of accreditation report deficiencies, improved personnel administration, more efficient management practices and other administrative and academic actions to improve the local districts' performance.

(4) Failure by an educationally deficient school district to implement the approved educational improvement plan shall be grounds for the superintendent of public instruction, with the concurrence of the state board of education, to intervene in the operation of a local school district and limit the authority of the local superintendent and local board of education to act in the following areas:

(a) Expenditure of funds;

(b) Employment and dismissal of personnel;

(c) Establishment and modification of the school calendar;

(d) Instructional program and policies;

(e) Student code of conduct; and

(f) Other areas as may be designated by state board of education regulation.

(5) Action initiated pursuant to subsection (4)(b) of this section, relative to employment and dismissal of personnel, shall be in accordance with the provisions of KRS 161.720 to 161.810 and 161.990. To facilitate the implementation of the educational improvement plan in an educationally deficient school district, the superintendent of public instruction, with the approval of the state board of education, may require an annual

reallocation of an amount not to exceed twenty-five percent (25%) of the power equalization program funds received by the district to address program and service needs outlined in the educational improvement plan.

(6) Failure to implement the educational improvement plan shall constitute grounds for removal from office pursuant to KRS 156.132 to 156.136. This section shall not be deemed to create a statutory cause of action for educational malpractice by students, their parents or guardians.

HB 716. AN ACT relating to state boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.010 is amended to read as follows:

(1) The department of education shall consist of the superintendent of public instruction, who shall be the executive officer of the department, the office of instruction, the office of education for exceptional children, the office of local services, the office of vocational education, the office of vocational rehabilitation, the office of budget management, the office of legal services, the office of personnel management, the office of administrative services, the office of resource management, the office of research and planning, *the state board for vocational-technical, adult education and vocational rehabilitation services* and the state board *for elementary and secondary* [~~of~~] education.

(2) The superintendent of public instruction shall appoint a deputy superintendent for programs who is authorized to act in the absence of the superintendent of public instruction. The superintendent shall also appoint a deputy superintendent for administration, a deputy superintendent who shall be secretary to the state board *for elementary and secondary* [~~of~~] education, a chief executive assistant to the superintendent, a special assistant for public affairs responsible for press relations, an ombudsman responsible for coordination and referral of correspondence from the public as it relates to departmental services and functions and a principal assistant for federal and state liaison.

(3) The superintendent of public instruction shall have general supervision of all assistants, agents and employes. He shall be responsible for implementing policies promulgated by the state board *for elementary and secondary* [~~of~~] education. He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

(4) All employes shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

(5) The department of education shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, vocational education, vocational rehabilitation, the Kentucky school for the blind and the Kentucky school for the deaf, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed. The department of education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

(6) The Kentucky school for the blind advisory board, the Kentucky school for the deaf advisory board, the state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], the Kentucky council on teacher education and certification, the state advisory committee for educational improvement and the state textbook commission are administratively attached to the office of superintendent, but each shall continue to exercise all the functions conferred upon it by law.

(7) The state department of education in the operation and management of its schools and the programs at these schools shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state department of education.

(8) The department of education is hereby designated as the sole state agency for the purpose of developing

and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education, vocational education, vocational rehabilitation and adult education.

Section 2. KRS 156.024 is amended to read as follows:

Prior to submission of the formal budgetary requests of the department of education, established in KRS 156.010, to the governor and executive branch, complete copies *of the budget areas in each board's jurisdiction* shall be forwarded to the state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] to enable *them* [~~it~~] to fully investigate and review said requests and make recommendations to the governor.

Section 3. KRS 156.031 is amended to read as follows:

(1) There is hereby established within the department of education a state board *for elementary and secondary* [~~of~~] education which shall consist of thirteen (13) members. Seven (7) members shall be appointed, one (1) from each Supreme Court district, as established by KRS 21A.010, and six (6) members from the state at large, by the governor to serve for terms of four (4) years[~~, except that the original appointments shall be for the terms set out in Executive Order 80-624~~]. *The members of the state board of education shall comprise the original members of the board and serve in such capacity for the remainder of their terms.*

(2) The terms of the [~~original~~] appointees shall expire on June 30 in the *appropriate* year [~~designated~~], and the terms of each *new* member appointed thereafter shall begin on July 1.

(3) Vacancies in the membership of the board shall be filled by the governor for unexpired terms. Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership [~~and a voting member shall be elected to serve as the ex officio member of the council on higher education~~].

(5) The superintendent of public instruction or his designee shall be the executive officer of the [~~state~~] board [~~of education~~].

(6) The primary function of the [~~state~~] board [~~of education~~] shall be to develop and adopt policies and regulations by which the department of education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services and activities within the department of education *which are within the jurisdiction of the board.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established within the department of education a state board for vocational-technical, adult education and vocational rehabilitation services which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large.

(2) The governor shall make appointments to the board and fill vacancies as they may occur. Appointments shall conform to KRS 156.040.

(3) The original appointments shall expire on June 30 in the year hereinafter designated and the terms of each member appointed thereafter shall begin on July 1 and be for four (4) years. The original appointments to the board shall be made in the following manner: three (3) shall expire on June 30, 1989; three (3) shall expire on June 30, 1990; and three (3) shall expire on June 30, 1991.

(4) The superintendent of public instruction or his designee shall be the executive officer of the board.

(5) The primary function of the board shall be to develop and adopt policies and regulations by which the department of education shall be governed in planning, coordinating, administering, supervising, operating

and evaluating the vocational-technical, adult and community education and vocational rehabilitation programs, services and activities within the department of education.

(6) The board shall have the management and control of state-operated vocational schools and vocational rehabilitation centers.

(7) The board shall have authority to establish administration and operating procedures for state-operated vocational schools, and regional staffs therefor, and for vocational rehabilitation centers, and field staffs therefor.

(8) The board shall have the authority to enter into agreements with other agencies in order to carry out services under its jurisdiction.

Section 5. KRS 156.035 is amended to read as follows:

(1) The Kentucky state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services are* [~~of education is~~] recognized to be [~~a~~] public *bodies* [~~body~~] corporate and politic, and *agencies* [~~an agency~~] and *instrumentalities* [~~instrumentality~~] of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under *their* [~~its~~] control and supervision the *boards are* [~~board is~~] authorized to implement the provisions of any act of Congress appropriating and apportioning funds to the state, to receive funds appropriated by the Kentucky general assembly, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws, and to accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The *boards are* [~~board is~~] authorized to expend funds necessary for errors and omissions insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become [~~state board of education~~] members *of state boards,* and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this subsection shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the state *boards* [~~board~~] of education, the department of education, or any of their respective officers, agents, or employes.

Section 6. KRS 156.040 is amended to read as follows:

(1) The members of the state board *for vocational-technical, adult education and vocational rehabilitation services and the state board for elementary and secondary* [~~of~~] education shall have the same qualifications as school board members, except that members of *these boards* [~~the state board of education~~] shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(2) Members of the state board for vocational-technical, adult education and vocational rehabilitation services shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

Section 7. KRS 156.060 is amended to read as follows:

For meetings of the state board for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services, a majority of the voting members [~~of the state board of education~~] shall constitute a quorum for the transaction of business. *Each* [~~The~~] board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of *each* [~~the~~] board may be called by the chairperson, and upon written request of two (2) members the chairperson shall call a special meeting of the board to be held not later than twenty

(20) days following receipt of the written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested to each member of the board at least ten (10) days prior to the time of any meeting, unless all members of the board waive notice in writing. The offices of *each* [~~the~~] board shall be at the seat of government in the department of education and shall be provided by the state. Members of the board may receive a per diem of one hundred dollars ($100) for each regular or special meeting attended [~~and for each meeting attended as an ex officio non-voting member of the council on higher education~~] and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for *each board* [~~the state board of education~~].

Section 8. KRS 156.070 is amended to read as follows:

(1) The state board of education shall have the management and control of the common schools, and all programs operated in such schools, including interscholastic athletics, the Kentucky school for the deaf and the Kentucky school for the blind. *The state board for vocational-technical, adult education and vocational rehabilitation services shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.*

(2) The *state* board *for elementary and secondary education* may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.

(3) (a) *The state board for elementary and secondary education* [~~It~~] is hereby authorized to lease from the state property and buildings commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. Any such lease may be for any initial term commencing with the date of such lease and ending with the next ensuing June 30 which is the close of the then current fiscal biennium of the Commonwealth with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the state property and buildings commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which said state property and buildings commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring such television and related facilities, with appurtenances and such costs as may be incident to the issuance of such bonds.

(b) Each such option of the state board *for elementary and secondary* [~~of~~] education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the general assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the state property and buildings commission in writing, signed by the superintendent of public instruction, and delivered to the secretary of the finance and administration cabinet as a member of said commission; provided, however, that such option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the finance and administration cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The *state* board *for elementary and secondary education* shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the superintendent of public instruction and the department of education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any such contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to such reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any such contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the state property and buildings commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of such television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state *boards* [~~board of education~~] may, on the recommendation and with the advice of the superintendent of public instruction, prescribe, print, publish and distribute at public expense such rules, regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as *each* [~~it~~] deems necessary for the efficient management, control and operation of the schools *and programs* under its jurisdiction. All rules and regulations published or distributed by *each* [~~the~~] board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the superintendent of public instruction or his designee, the state *boards* [~~board of education~~] shall, *within their respective jurisdictional areas*, establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the department of education.

(6) Vocational and non-vocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the council on higher education for the issuance of associate, baccalaureate or graduate degrees. The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] and the state department of education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board [~~of education~~]. The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], with approval of the council on higher education, may contract with institutions of public higher education for the operation of specific programs and projects.

(7) The department of education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], contract with a local school system for such services.

(8) The *state* board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.

(9) The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], in conjunction with the council on higher education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board [~~of education~~] and other general education programs.

(10) The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] shall have the authority and responsibility to review and to make recommendations to the council on higher education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.

Section 9. KRS 156.230 is amended to read as follows:

(1) The superintendent of public instruction shall annually prepare or cause to be prepared, and submit for approval and publication by the state board *for elementary and secondary* [~~of~~] education, a list of all public and private high schools or other secondary schools in the state, showing the classification of each.

(2) He shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the state board *for elementary and secondary education or the state board for vocational-technical, adult*

education and vocational rehabilitation services [~~of education~~], such bulletins, programs, outlines of courses, placards, and courses of study as he deems useful in the promotion of the interests of the public schools, vocational education and vocational rehabilitation.

(3) He shall also prepare for publication the rules, regulations, minimum standards for schools and educational policies or programs adopted by the boards for the operation, regulation and government of the schools under their supervision.

Section 10. KRS 156.240 is amended to read as follows:

The superintendent of public instruction shall prepare for publication biennially, the complete school laws of the state, including abstracts of decisions of the court of justice, and opinions and interpretations of the attorney general and the superintendent of public instruction. He shall explain the true intent and meaning of the school laws and the published rules and regulations of the state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], and in doing so he shall freely consult the attorney general.

Section 11. KRS 156.253 is amended to read as follows:

(1) The superintendent of public instruction may enter into agreement to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45.360and 45.700 to 45.720 when awarded on the basis of a detailed training plan approved by the superintendent of public instruction. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The superintendent of public instruction may approve authorization for the department of education to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employe of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 12. KRS 156.485 is amended to read as follows:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5.00) fee may be assessed by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] for the issuance of a duplicate GED high school equivalency certificate. All fees collected for duplicate certificates shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;

(c) Staff shall be employed and trained by the department of education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED, high school equivalency examination; and

(d) Essay readers will be assigned to the division of adult education to score essays daily.

Section 13. KRS 157.060 is amended to read as follows:

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the state board *for elementary and secondary education or the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

Section 14. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year, one (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) [~~(a) Effective until July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through six (6) except in vocal and instrumental music, art, physical education and special education classes. The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through six (6).~~

~~(b) Effective July 1, 1986,~~] The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board *for elementary and secondary* [~~of~~] education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board *for elementary and secondary* [~~of~~] education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board *for elementary and secondary* [~~of~~] education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~]; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~]. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(c) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include: a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state department of education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the state superintendent of public instruction a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state department of education to determine that the summer plan has been properly executed.

(10) (a) Through the 1987-88 school year, one (1) classroom unit shall be included upon the employment of each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor;

(b) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board *for elementary and secondary* [~~of~~] education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment;

(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit; and

(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.

(11) (a) In allotting classroom units for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board *for elementary and secondary* [~~of~~] education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education; and

(b) Pursuant to regulations of the department of education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(12) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(13) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(14) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(15) In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.

(16) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections (12) and (13) of this section for related services for exceptional children.

SECTION 15. A NEW SECTION OF KRS CHAPTER 163 IS CREATED TO READ AS FOLLOWS:

(1) (a) Effective July 15, 1988, the state board for vocational-technical, adult education and vocational rehabilitation services shall have authority to adopt and establish, by administrative regulations, personnel policies and procedures for the certified and equivalent staff in state-operated vocational schools and vocational rehabilitation centers, and certified regional staffs. Policies and procedures shall include, but not be limited to, maintenance of classification and salary schedules; the various types of allowed leave; the extent and duration of the school term and use of school days; extended employment; the establishment and abolishment of positions and prescribing duties and qualifications for positions; initial appointments based upon merit and training and experience and other relevant considerations; initial probationary periods for all new employes; promotions, demotions and transfers; layoffs on account of lack of work or funds, material change in duties or organization or decrease in enrollment; suspensions and dismissals for cause of status employes; employe evaluations; grievance procedures; and appeal procedures.

(b) The merit system, and personnel policies and procedures, established by the state board for vocational-technical, adult education and vocational rehabilitation services for employes of the department of education under its jurisdiction shall mirror KRS Chapter 18A and implementing regulations insofar as is practicable with respect to the operation of a state school system, and it shall preserve and protect vested KRS Chapter 18A rights of employes, who, any statutory provisions to the contrary notwithstanding, shall be removed from the jurisdiction of the personnel department and the state personnel board.

(c) The superintendent of public instruction shall continue as the appointing authority with respect to all personnel actions affecting certified or equivalent staff in state-operated vocational schools and rehabilitation centers, and the various regions responsible therefor.

(d) 1. The state board for vocational-technical, adult education and vocational rehabilitation services shall establish and administer a due process hearing and appeal system for aggrieved employes, and in doing such shall have powers comparable to those set forth in KRS 18A.065 and the power to make appropriate investigations. Final orders of the board with respect to personnel actions shall be appealable in accordance with the provisions

of KRS 18A.100.

2. Any appropriate backpay for an employe prevailing upon appeal shall be calculated in accordance with KRS 18A.105.

3. The board shall promulgate administrative regulations extending the prohibitions and rights of KRS 18A.140 and 18A.145 to the employes under its jurisdiction.

4. Employes subject to the jurisdiction of the board shall continue to be covered by the provisions of KRS 18A.205 to 18A.355.

(2) (a) The state board for vocational-technical, adult education and vocational rehabilitation services shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in that vocational region for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as regular pay.

(b) The board, in cooperation with the superintendent of public instruction, shall present to the 1990 general assembly a plan for a contract with a salary schedule for all certified and equivalent staff in state-operated vocational schools and rehabilitation centers, and the various regions responsible therefor, such that the proposed schedule complies with the requirements of a single salary schedule as defined in KRS 157.320.

Section 16. KRS 163.120 is amended to read as follows:

The superintendent of public instruction is hereby authorized to establish within the department of education a state vocational rehabilitation agency. This agency shall have such powers and duties as contained in KRS 163.110 to 163.180 and such other functions as may be established by regulation of the state board for *vocational-technical, adult education and vocational rehabilitation services* [~~occupational education~~].

Section 17. KRS 163.032 is amended to read as follows:

(1) [~~The Kentucky department of education, with assistance from the Kentucky department of personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in that vocational region for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as the regular pay.~~

~~(2)~~] The Kentucky department of education, with assistance from the Kentucky department of personnel, shall adopt a salary schedule for teachers in the Kentucky school for the deaf and the Kentucky school for the blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

(2)[~~(3) Schedules for the 1986-87 school year shall be developed and implemented by August 1, 1986.~~

~~(4)~~] Certified teachers in the Kentucky school for the deaf and the Kentucky school for the blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

Section 18. The Reviser of Statutes is directed to change the phrase, "state board of education" to "state board for elementary and secondary education" in each and every place the phrase appears in the following statutes: 12.020, 12.410, 17.165, 58.150, 66.480, 156.022, 156.071, 156.074, 156.076, 156.080, 156.090, 156.095, 156.097, 156.101, 156.132, 156.134, 156.136, 156.138, 156.152, 156.153, 156.154, 156.160, 156.200, 156.210, 156.255, 156.275, 156.400, 156.405, 156.410, 156.437, 156.447, 156.470, 156.472, 156.474, 156.476, 156.499, 156.611, 156.613, 157.100, 157.110, 157.120, 157.130, 157.140, 157.150, 157.160, 157.170, 157.190, 157.200, 157.220, 157.221, 157.224, 157.250, 157.280, 157.315, 157.320, 157.350, 157.390, 157.410, 157.420, 157.510, 157.520, 157.570, 157.580, 157.615, 157.620, 157.622, 158.030, 158.060, 158.070, 158.110, 158.120, 158.140, 158.148, 158.355, 158.360, 158.405, 158.425, 158.607, 158.610, 158.620, 158.6401, 158.6402, 158.6403, 158.650, 158.660, 158.665, 158.670, 158.685, 158.690, 158.700, 158.710, 158.730, 158.750, 158.770, 158.775, 158.780, 158.785, 158.800, 158.805, 159.030, 159.040, 159.070, 159.080, 159.130, 159.140, 159.170, 159.260, 160.041, 160.045, 160.105, 160.156, 160.157, 160.180, 160.190, 160.210, 160.293, 160.340, 160.370, 160.380, 160.390, 160.460, 160.470, 160.510, 160.530, 160.550, 160.560, 160.570, 160.599, 160.640, 161.010, 161.025, 161.027, 161.030, 161.042, 161.044, 161.046, 161.100, 161.115, 161.120, 161.122, 161.126, 161.155, 161.159, 161.210, 161.740, 162.060, 162.170, 162.180, 162.185, 164.0282, 164.050, 164.740, 167.015, 167.017, 167.035, 167.037, 167.150, 167.170, 168.020, 319.015, 335.010, 367.660, and 452.430.

Section 19. The Reviser of Statutes is directed to change the phrase "state board of education" to "state board for vocational-technical, adult education and vocational rehabilitation services" in each and every place the phrase appears in the following statutes: 163.030, 163.070, 163.085, 163.086, 163.087, 163.120, 163.140, 163.180, 317A.150 and 343.020.

The Committee Substitute to **HB 716** is as follows:

HB 716. AN ACT relating to state boards of education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.010 is amended to read as follows:

(1) The department of education shall consist of the superintendent of public instruction, who shall be the executive officer of the department, the office of instruction, the office of education for exceptional children, the office of local services, the office of vocational education, the office of vocational rehabilitation, the office of budget management, the office of legal services, the office of personnel management, the office of administrative services, the office of resource management, the office of research and planning, *the state board for vocational-technical, adult education and vocational rehabilitation services* and the state board *for elementary and secondary* [~~of~~] education.

(2) The superintendent of public instruction shall appoint a deputy superintendent for programs who is authorized to act in the absence of the superintendent of public instruction. The superintendent shall also appoint a deputy superintendent for administration, a deputy superintendent who shall be secretary to the state board *for elementary and secondary* [~~of~~] education *and the state board for vocational-technical, adult education and vocational rehabilitation services,* a chief executive assistant to the superintendent, a special assistant for public affairs responsible for press relations, an ombudsman responsible for coordination and referral of correspondence from the public as it relates to departmental services and functions and a principal assistant for federal and state liaison.

(3) The superintendent of public instruction shall have general supervision of all assistants, agents and employes. He shall be responsible for implementing policies promulgated by the state board *for elementary and secondary* [~~of~~] education *and the state board for vocational-technical, adult education and vocational rehabilitation services.* He may clothe his assistants with full power of attorney to act for him in the supervision, inspection and administration of the schools over which he has supervisory and administrative control.

(4) All employes shall be reimbursed for necessary traveling expenses incurred in the performance of their official duties, and no part of the reimbursement shall be included in or accounted as a part of their salaries.

(5) The department of education shall exercise all the administrative functions of the state in relation to the management and control of the public common schools, vocational education, vocational rehabilitation, the Kentucky school for the blind and the Kentucky school for the deaf, and may exercise the general powers and functions relating to state vocational schools and area vocational educational centers for young people who are enrolled in regular day schools and for out-of-school youth and adults, both employed and unemployed. The department of education shall exercise also those powers relating to television in aid of education and other proper public functions, as provided in KRS 156.070.

(6) The Kentucky school for the blind advisory board, the Kentucky school for the deaf advisory board, the state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], the Kentucky council on teacher education and certification, the state advisory committee for educational improvement and the state textbook commission are administratively attached to the office of superintendent, but each shall continue to exercise all the functions conferred upon it by law.

(7) The state department of education in the operation and management of its schools and the programs at these schools shall meet all required federal and state standards relating to facilities and personnel qualifications; however, no license or license fee shall be required for any school or program operated by the state department of education.

(8) The department of education is hereby designated as the sole state agency for the purpose of developing and approving state plans required by state or federal laws and regulations as prerequisites to receiving federal funds for elementary and secondary education, vocational education, vocational rehabilitation and adult education.

Section 2. KRS 156.024 is amended to read as follows:

Prior to submission of the formal budgetary requests of the department of education, established in KRS 156.010, to the governor and executive branch, complete copies *of the budget areas in each board's jurisdiction* shall be forwarded to the state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] to enable *them* [~~it~~] to fully investigate and review said requests and make recommendations to the governor.

Section 3. KRS 156.031 is amended to read as follows:

(1) There is hereby established within the department of education a state board *for elementary and secondary* [~~of~~] education which shall consist of thirteen (13) members. Seven (7) members shall be appointed, one (1) from each Supreme Court district, as established by KRS 21A.010, and six (6) members from the state at large, by the governor to serve for terms of four (4) years[~~, except that the original appointments shall be for the terms set out in Executive Order 80-624~~]. *The members of the state board of education shall comprise the original members of the board and serve in such capacity for the remainder of their terms.*

(2) The terms of the [~~original~~] appointees shall expire on June 30 in the *appropriate* year [~~designated~~], and the terms of each *new* member appointed thereafter shall begin on July 1.

(3) Vacancies in the membership of the board shall be filled by the governor for unexpired terms. Appointments shall be made without reference to occupation, political affiliation, or similar consideration. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(4) At the first regular meeting of the board in each fiscal year, a chairperson shall be elected from its voting membership [~~and a voting member shall be elected to serve as the ex officio member of the council on higher education~~].

(5) The superintendent of public instruction or his designee shall be the executive officer of the [~~state~~] board [~~of education~~].

(6) The primary function of the [~~state~~] board [~~of education~~] shall be to develop and adopt policies and regulations by which the department of education shall be governed in planning, coordinating, administering, supervising, operating, and evaluating the educational programs, services and activities within the department of education *which are within the jurisdiction of the board.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established within the department of education a state board for vocational-technical, adult education and vocational rehabilitation services which shall consist of nine (9) voting members, one (1) from each Supreme Court district as established by KRS 21A.010 and two (2) members from the state at large.

(2) The governor shall make appointments to the board and fill vacancies as they may occur. Appointments shall conform to KRS 156.040. Subsequent to the effective date of this Act, the state board for vocational-technical, adult education and vocational rehabilitation services and all programs, services, and activities within its jurisdiction shall not be reorganized except by the General Assembly.

(3) The original appointments shall expire on June 30 in the year hereinafter designated and the terms

of each member appointed thereafter shall begin on July 1 and be for four (4) years. The original appointments to the board shall be made in the following manner: three (3) shall expire on June 30, 1989; three (3) shall expire on June 30, 1990; and three (3) shall expire on June 30, 1991.

(4) The superintendent of public instruction or his designee shall be the executive officer of the board.

(5) The primary function of the board shall be to develop and adopt policies and regulations by which the department of education shall be governed in planning, coordinating, administering, supervising, operating and evaluating the vocational-technical, adult and community education and vocational rehabilitation programs, services and activities within the department of education.

(6) The board shall have the management and control of state-operated vocational schools and vocational rehabilitation centers.

(7) The board shall have authority to establish administration and operating procedures for state-operated vocational schools, and regional staffs therefor, and for vocational rehabilitation centers, and field staffs therefor. However, all positions and employes shall continue to be subject to the provisions of KRS Chapter 18A.

(8) The board shall have the authority to enter into agreements with other agencies in order to carry out services under its jurisdiction.

(9) The board shall have authority to recommend to the state board for elementary and secondary education standards pertaining to secondary vocational education curriculum, accreditation, equipment, facilities, and related matters.

Section 5. KRS 156.035 is amended to read as follows:

(1) The Kentucky state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services are* [~~of education is~~] recognized to be [~~a~~] public *bodies* [~~body~~] corporate and politic, and *agencies* [~~an agency~~] and *instrumentalities* [~~instrumentality~~] of the Commonwealth in the performance of essential governmental functions.

(2) For the benefit of programs under *their* [~~its~~] control and supervision the *boards are* [~~board is~~] authorized to implement the provisions of any act of Congress appropriating and apportioning funds to the state, to receive funds appropriated by the Kentucky general assembly, and to provide for the proper apportionment and disbursement of such funds in accordance with state or federal laws, and to accept and provide for the administration of any gifts, donations, or devises.

(3) (a) The *boards are* [~~board is~~] authorized to expend funds necessary for errors and omissions insurance premiums for insurance to cover the defense of, and any damages and costs awarded in, any civil action brought against individual board members on account of an act made in the scope and course of their performance of legal duties as board members.

(b) The authorization of the expenditure of public funds for such insurance is deemed critical to continuing to attract qualified individuals to become [~~state board of education~~] members *of state boards*, and is deemed to authorize the expenditure of public funds for a public purpose.

(c) Nothing in this subsection shall be construed as a waiver of the sovereign immunity of the Commonwealth with respect to claims against the state *boards* [~~board~~] of education, the department of education, or any of their respective officers, agents, or employes.

Section 6. KRS 156.040 is amended to read as follows:

(1) The members of the state board *for vocational-technical, adult education and vocational rehabilitation services and the state board for elementary and secondary* [~~of~~] education shall have the same qualifications as school board members, except that members of *these boards* [~~the state board of education~~] shall be at least thirty (30) years of age. Appointments shall be made without reference to occupation, political affiliation or similar considerations. No member at the time of his appointment or during the term of his service shall be engaged as a professional educator.

(2) Members of the state board for vocational-technical, adult education and vocational rehabilitation services shall possess an understanding of business and industry and a knowledge of occupational and academic needs of adults. At least one (1) member shall possess a knowledge of vocational rehabilitation services.

Section 7. KRS 156.060 is amended to read as follows:

For meetings of the state board for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services, a majority of the voting members [~~of the state board of education~~] shall constitute a quorum for the transaction of business. *Each* [~~The~~] board shall meet not less than every three (3) months and at such other times as it may be called as provided in this section. Special meetings of *each* [~~the~~] board may be called by the chairperson, and upon written request of two (2) members the chairperson shall call a special meeting of the board to be held not later than twenty (20) days following receipt of the written request. The chairperson shall give notice through the secretary by registered or certified mail, return receipt requested to each member of the board at least ten (10) days prior to the time of any meeting, unless all members of the board waive notice in writing. The offices of *each* [~~the~~] board shall be at the seat of government in the department of education and shall be provided by the state. Members of the board may receive a per diem of one hundred dollars ($100) for each regular or special meeting attended [~~and for each meeting attended as an ex officio non-voting member of the council on higher education~~] and actual expenses for attending meetings, and may be reimbursed for other actual and necessary expenditures incurred in the performance of their duties authorized by the board. The per diem and expenses shall be paid out of the appropriation for *each board* [~~the state board of education~~].

Section 8. KRS 156.070 is amended to read as follows:

(1) The state board *for elementary and secondary* [~~of~~] education shall have the management and control of the common schools, and all programs operated in such schools, including interscholastic athletics, the Kentucky school for the deaf and the Kentucky school for the blind. *The state board for vocational-technical, adult education and vocational rehabilitation services shall have the management and control of the state-operated vocational schools and vocational rehabilitation centers and all programs and services operated in these schools and centers. In addition, it shall be responsible for adult and community education programs and services.*

(2) The *state* board *for elementary and secondary education* may designate an organization or agency to manage interscholastic athletics in the common schools, provided that the rules, regulations and bylaws of any organization or agency so designated shall be approved by the board, and provided further that the board shall adopt regulations providing for the appeal to the board of any decisions made by the designated managing organization or agency.

(3) (a) *The state board for elementary and secondary education* [~~It~~] is hereby authorized to lease from the state property and buildings commission, or others, whether public or private, any lands, buildings, structures, installations and facilities suitable for use in establishing and furthering television and related facilities as an aid or supplement to classroom instruction, throughout the Commonwealth, and for incidental use in any other proper public functions. Any such lease may be for any initial term commencing with the date of such lease and ending with the next ensuing June 30 which is the close of the then current fiscal biennium of the Commonwealth with exclusive options in favor of the board to renew the same for successive ensuing bienniums (July 1 in each even year to June 30 in the next ensuing even year); and the rentals may be fixed at such sums in each biennium, if renewed, as will be sufficient to enable the state property and buildings commission to pay therefrom the maturing principal of and interest on (and provide reserves for) any revenue bonds which said state property and buildings commission may determine to be necessary and sufficient, in agreement with the board, to provide the cost of acquiring such television and related facilities, with appurtenances and such costs as may be incident to the issuance of such bonds.

(b) Each such option of the state board *for elementary and secondary* [~~of~~] education to renew the lease for a succeeding biennial term may be exercised at any time after the adjournment of the session of the general assembly at which appropriations shall have been made for the operation of the state government for such succeeding biennial term, by notifying the state property and buildings commission in writing, signed by the superintendent of public instruction, and delivered to the secretary of the finance and administration cabinet as a member of said commission; provided, however, that such option shall be deemed automatically exercised, and the lease automatically renewed for the succeeding biennium, effective on the first day thereof, unless a written notice of the board's election not to renew shall have been delivered in the office of the secretary of the finance and administration cabinet before the close of business on the last working day in April immediately preceding the beginning of such succeeding biennium.

(c) The *state* board *for elementary and secondary education* shall not itself operate such leased television facilities, or undertake the preparation of the educational presentations or films to be transmitted thereby, but may enter into one (1) or more contracts to provide therefor, with any public agency and instrumentality of the Commonwealth having, or able to provide, a staff with proper technical qualifications, upon which agency and instrumentality the board, through the superintendent of public instruction and the department of education, is represented in such manner as to coordinate matters of curriculum with the curricula prescribed for the public schools of the Commonwealth. Any such contract for the operation of the leased television or related facilities may permit limited and special uses of the television or related facilities for other programs in the public interest, subject to such reasonable terms and conditions as the board and the operating agency and instrumentality may agree upon; but any such contract shall affirmatively forbid the use of the television or related facilities, at any time or in any manner, in the dissemination of political propaganda or in furtherance of the interest of any political party or candidate for public office, or for commercial advertising. No lease between the board and the state property and buildings commission shall bind the board to pay rentals for more than one (1) fiscal biennium at a time, subject to the aforesaid renewal options. The board may receive and may apply to rental payments under any such lease and to the cost of providing for the operation of such television or related facilities not only appropriations which may be made to it from state funds, from time to time, but also contributions, gifts, matching funds, devises and bequests from any source, whether federal or state, and whether public or private, so long as the same are not conditioned upon any improper use of the television or related facilities in a manner inconsistent with the provisions of this subsection.

(4) The state *boards* [~~board of education~~] may, on the recommendation and with the advice of the superintendent of public instruction, prescribe, print, publish and distribute at public expense such rules, regulations, courses of study, curriculums, bulletins, programs, outlines, reports and placards as *each* [~~it~~] deems necessary for the efficient management, control and operation of the schools *and programs* under its jurisdiction. All rules and regulations published or distributed by *each* [~~the~~] board shall be inclosed in a booklet or binder on which the words "informational copy" shall be clearly stamped or printed.

(5) Upon the recommendation of the superintendent of public instruction or his designee, the state *boards* [~~board of education~~] shall, *within their respective jurisdictional areas*, establish policy or act on all matters relating to programs, services, publications, capital construction and facility renovation, equipment, litigation, contracts, budgets and all other matters which are the administrative responsibility of the department of education.

(6) Vocational and non-vocational programs offered at the state universities shall be operated and administered by those universities consistent with the regulations developed by the board of trustees or regents and approved by the council on higher education for the issuance of associate, baccalaureate or graduate degrees. The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] and the state department of education shall not operate or administer any programs for such degrees. No institution of public higher education, including the community colleges, shall offer any new program of a vocational-technical-occupational nature below the associate degree level without the consent of the state board [~~of education~~]. The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], with approval of the council on higher education, may contract with institutions of public higher education for the operation of specific programs and projects.

(7) The department of education shall administer, supervise, and operate all programs offered in the state vocational technical schools and area vocational education centers, or may, with the approval of the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], contract with a local school system for such services.

(8) The *state* board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] shall be responsible for establishing priorities for, and approval of, construction of facilities designed for vocational-occupational type programs.

(9) The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], in conjunction with the council on higher education, shall, by program title, prepare a complete listing of programs of a vocational-technical-occupational type offered in public institutions of higher education and the community colleges, state vocational-technical schools and centers, and junior and senior high schools. These listings shall distinguish between vocational-technical-occupational programs for which approval is required by the state board [~~of education~~] and other general education programs.

(10) The state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] shall have the authority and responsibility to review and to make recommendations to the council

on higher education concerning both new programs and existing programs at the associate degree level offered at the institutions of public higher education, including the community colleges, if these programs are of a vocational-technical-occupational type.

Section 9. KRS 156.230 is amended to read as follows:

(1) The superintendent of public instruction shall annually prepare or cause to be prepared, and submit for approval and publication by the state board *for elementary and secondary* [~~of~~] education, a list of all public and private high schools or other secondary schools in the state, showing the classification of each.

(2) He shall, from time to time, prepare or cause to be prepared, and submit for approval and publication by the state board *for elementary and secondary education or the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], such bulletins, programs, outlines of courses, placards, and courses of study as he deems useful in the promotion of the interests of the public schools, vocational education and vocational rehabilitation.

(3) He shall also prepare for publication the rules, regulations, minimum standards for schools and educational policies or programs adopted by the boards for the operation, regulation and government of the schools under their supervision.

Section 10. KRS 156.240 is amended to read as follows:

The superintendent of public instruction shall prepare for publication biennially, the complete school laws of the state, including abstracts of decisions of the court of justice, and opinions and interpretations of the attorney general and the superintendent of public instruction. He shall explain the true intent and meaning of the school laws and the published rules and regulations of the state board *for elementary and secondary education and the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~], and in doing so he shall freely consult the attorney general.

Section 11. KRS 156.253 is amended to read as follows:

(1). The superintendent of public instruction may enter into agreement to train workers for new manufacturing jobs in new or expanding industries characterized by one (1) or more of the following criteria: a high average skill, a high average wage, rapid national growth, or jobs feasible and desirable for location in rural regions. Such agreements shall be subject to review and approval by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] at its next regularly scheduled meeting and shall not be subject to the requirements of KRS 45.360and 45.700 to 45.720 when awarded on the basis of a detailed training plan approved by the superintendent of public instruction. Reimbursement to the industry shall be made upon submission of documents validating actual training expenditure not to exceed the amount approved by the training plan.

(2) The superintendent of public instruction may approve authorization for the department of education to enter into agreement with industries whereby the industry may be reimbursed directly for the following services:

(a) The cost of instructors' salaries when the instructor is an employe of the industry to be served;

(b) Cost of only those supplies, materials, and equipment used exclusively in the training program; and

(c) Cost of leasing a training facility should a vocational education school or the industrial plant not be available.

Section 12. KRS 156.485 is amended to read as follows:

(1) For purposes of any public employment, a GED certificate shall be considered equal to a high school diploma. A GED certificate shall be issued without charge upon successfully passing a test or tests given by the General Educational Development Testing Service of the American Council on Education or successor organization. A five dollar ($5.00) fee may be assessed by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] for the issuance of a duplicate GED high school equivalency

certificate. All fees collected for duplicate certificates shall be used to support the adult education program.

(2) Sufficient funding shall be provided to comply with the American Council on Education's commission on educational credit and credentials requirement of an essay as an additional requirement on the GED examination. Funds shall be used for the following purposes:

(a) Curriculum shall be developed for GED essay writing and GED teachers in local districts shall receive training to teach writing skills to adults;

(b) Additional funds shall be granted to local districts for the addition of staff as necessary to accommodate the essay requirement and other new requirements as mandated by the American Council on Education;

(c) Staff shall be employed and trained by the department of education to score approximately seventeen thousand (17,000) essays annually as a part of the requirement for the GED, high school equivalency examination; and

(d) Essay readers will be assigned to the division of adult education to score essays daily.

Section 13. KRS 157.060 is amended to read as follows:

The officials of each educational institution and each school district supported in whole or in part from taxation shall make a report to the state board *for elementary and secondary education or the state board for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~] at the close of each scholastic year, showing in detail all funds received from the state and from all other sources during the year, and a detailed statement of all expenditures for the year.

Section 14. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that the number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance, except when sufficient funding is appropriated to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year, one (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance;

1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and

1989-90 and thereafter, one (1) unit for each twenty (20) students in average daily attendance;

(c) Classroom units for grade two (2) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;

1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and

1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;

(d) Classroom units for grade three (3) shall be allotted as follows:

1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and

1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;

(e) Classroom units for grade four (4) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;

1987-88, one (1) unit for each twenty-six (26) students in average daily attendance;

1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and

1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;

(f) Classroom units for grade five (5) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(g) Classroom units for grade six (6) shall be allotted as follows:

1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and

1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;

(h) Twenty-seven (27) pupils in average daily attendance in grades seven (7) through twelve (12). Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (9) of this section and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district for grades four (4) through twelve (12) under subsection (10) of this section. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades four (4) through twelve (12) before classroom units are allotted under this paragraph. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12) except as provided in subsections (9) and (10) of this section.

(3) [~~(a) Effective until July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through six (6) except in vocal and instrumental music, art, physical education and special education classes. The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through six (6).~~

~~(b) Effective July 1, 1986,~~] The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board *for elementary and secondary* [~~of~~] education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, art, physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board *for elementary and secondary* [~~of~~] education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board *for elementary and secondary* [~~of~~] education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8).

(4) In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(5) If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(6) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(7) Allotments of classroom units except those allotted in accordance with subsection (8) of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(8) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection (7) of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(9) (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~]; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board *for vocational-technical, adult education and vocational rehabilitation services* [~~of education~~]. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(c) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include: a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state department of education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the state superintendent of public instruction a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state department of education to determine that the summer plan has been properly executed.

(10) (a) Through the 1987-88 school year, one (1) classroom unit shall be included upon the employment of each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor;

(b) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education shall be allotted for each six (6) children identified as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board *for elementary and secondary* [~~of~~] education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment;

(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection, if a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense and capital outlay allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit; and

(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.

(11) (a) In allotting classroom units for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board *for elementary and secondary* [~~of~~] education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education; and

(b) Pursuant to regulations of the department of education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education.

(12) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), (9), and (10) of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(13) In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), (9) and (10) of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(14) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this section. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(15) In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.

(16) In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

(17) Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board *for elementary and secondary* [~~of~~] education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections (12) and (13) of this section for related services for exceptional children.

Section 15. KRS 163.120 is amended to read as follows:

The superintendent of public instruction is hereby authorized to establish within the department of education a state vocational rehabilitation agency. This agency shall have such powers and duties as contained in KRS 163.110 to 163.180 and such other functions as may be established by regulation of the state board for *vocational-technical, adult education and vocational rehabilitation services* [~~occupational education~~].

Section 16. KRS 163.032 is amended to read as follows:

(1) The Kentucky department of education, with assistance from the Kentucky department of personnel, shall develop a salary structure that will enable teachers in the state-supported vocational schools to be initially employed at a starting salary that is not lower than the average salary paid to beginning classroom teachers by all schools in that vocational region for personnel with comparable qualifications and experience. The salary schedules shall be computed prior to July 1 of each year and shall be based on the regular one hundred eighty-five (185) day school year. Salaries for extended employment shall be computed at the same rate as

the regular pay.

(2) The Kentucky department of education, with assistance from the Kentucky department of personnel, shall adopt a salary schedule for teachers in the Kentucky school for the deaf and the Kentucky school for the blind. The salary schedule shall be the same as salary schedules in effect in local school districts in counties containing a city of the first class and shall conform to the requirements for a single salary schedule as defined in KRS 157.320.

(3) [~~Schedules for the 1986-87 school year shall be developed and implemented by August 1, 1986.~~

~~(4)~~] Certified teachers in the Kentucky school for the deaf and the Kentucky school for the blind shall have the same statutory employment status and benefits as certified teachers in the public schools.

Section 17. The Reviser of Statutes is directed to change the phrase, "state board of education" to "state board for elementary and secondary education" in each and every place the phrase appears in the following statutes: 12.020, 12.410, 17.165, 58.150, 66.480, 156.022, 156.071, 156.074, 156.076, 156.080, 156.090, 156.095, 156.097, 156.101, 156.132, 156.134, 156.136, 156.138, 156.152, 156.153, 156.154, 156.160, 156.200, 156.210, 156.255, 156.275, 156.400, 156.405, 156.410, 156.437, 156.447, 156.470, 156.472, 156.474, 156.476, 156.499, 156.611, 156.613, 157.100, 157.110, 157.120, 157.130, 157.140, 157.150, 157.160, 157.170, 157.190, 157.200, 157.220, 157.221, 157.224, 157.250, 157.280, 157.315, 157.320, 157.350, 157.390, 157.410, 157.420, 157.510, 157.520, 157.570, 157.580, 157.615, 157.620, 157.622, 158.030, 158.060, 158.070, 158.110, 158.120, 158.140, 158.148, 158.355, 158.360, 158.405, 158.425, 158.607, 158.610, 158.620, 158.6401, 158.6402, 158.6403, 158.650, 158.660, 158.665, 158.670, 158.685, 158.690, 158.700, 158.710, 158.730, 158.750, 158.770, 158.775, 158.780, 158.785, 158.800, 158.805, 159.030, 159.040, 159.070, 159.080, 159.130, 159.140, 159.170, 159.260, 160.041, 160.045, 160.105, 160.156, 160.157, 160.180, 160.190, 160.210, 160.293, 160.340, 160.370, 160.380, 160.390, 160.460, 160.470, 160.510, 160.530, 160.550, 160.560, 160.570, 160.599, 160.640, 161.010, 161.025, 161.027, 161.030, 161.042, 161.044, 161.046, 161.100, 161.115, 161.120, 161.122, 161.126, 161.155, 161.159, 161.210, 161.740, 162.060, 162.170, 162.180, 162.185, 164.0282, 164.050, 164.740, 167.015, 167.017, 167.035, 167.037, 167.150, 167.170, 168.020, 319.015, 335.010, 367.660, and 452.430.

Section 18. The Reviser of Statutes is directed to change the phrase "state board of education" to "state board for vocational-technical, adult education and vocational rehabilitation services" in each and every place the phrase appears in the following statutes: 163.030, 163.070, 163.085, 163.086, 163.087, 163.120, 163.140, 163.180, 317A.150 and 343.020.

HB 928, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The department of education shall develop a comprehensive statewide program on the teaching of Kentucky government by:

(a) Assisting in the development of model curricula for the public schools;

(b) Identifying innovative teaching methods for the instruction of Kentucky government;

(c) Developing methods of evaluating the effectiveness of instruction;

(d) Assisting school districts in conducting teacher in-service education programs.

(2) Instruction in Kentucky government classes shall be conducted in grades kindergarten to twelve (K 12) as part of the social studies curriculum. Such instruction shall be sequential in nature and suited to meet the needs of the students at their respective grade level.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

The governing board of each local school district shall adopt a policy regarding the teaching of Kentucky government in accordance with guidelines approved by the state board of education and consistent with the *provisions of this Act, specifying among other things, the curriculum to be utilized in teaching Kentucky government, provisions for in-service training and curriculum assistance to teachers.*

HB 939, AN ACT relating to sick leave.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employe" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, parents and spouse's parents, grandparents and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick-leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill or that the teacher was absent for the purpose of attending to a member of his immediate family who was ill. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employes and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). *Effective July 1, 1986 and thereafter*, any accumulated sick-leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky department of education.

(4) Accumulated days of sick leave shall be granted to a teacher, if prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) A district board of education may adopt a plan for a sick-leave bank. Such plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick-leave bank shall be administered in accordance with a policy adopted by the board of education.

(6) A teacher may use up to thirty (30) days of sick leave following the adoption of a child or children.

(7) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employe or a teacher for each unused sick-leave day. The rate of compensation for each unused sick-leave day shall be based on a percentage of the daily salary rate calculated from the employe's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick-leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for

members on the sick-leave payment. The accumulation of such days includes unused sick-leave days held by the employe or teacher at the time of implementation of such a program.

The Committee Amendment No. 1 to **HB 939** is as follows:

Amend printed copy of **HB 939** on page 2, line 20, by deleting "*Effective July 1, 1986 and thereafter,*" and capitalize "Any"; and

On page 2, line 24, after the word "education." add "*after June 30, 1986.*".

The Committee on Education reported **HB 494**, with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Labor and Industry reported **HB 478, HB 916,** and **HB 966** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 478, AN ACT relating to business mergers, liquidations, dispositions, relocations and cessations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

As used in this Act:

(1) "Employer" shall mean any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe;

(2) "Employe" shall mean any person employed by or suffered or permitted to work for an employer, but shall not include:

(a) Any individual employed in agriculture; and

(b) Any individual employed in a temporary position;

(3) "Agriculture" means farming in all its branches, including the cultivation and tillage of the soil, dairying, the production, cultivation, and harvesting of any agricultural or horticultural commodity, the raising of livestock, bees, furbearing animals or poultry, and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with such farming operations, including the preparation and delivery of produce to storage, or to market or to carriers for transportation to market;

(4) "Temporary position" shall mean one created for a defined period of time not to exceed six (6) months and not renewable;

(5) "Commissioner" shall mean the commissioner of the department of economic development; and

(6) "Secretary" shall mean the secretary of the cabinet for human resources.

SECTION 2. A NEW SECTION OF KRS CHAPTER 152 IS CREATED TO READ AS FOLLOWS:

(1) Any employer who undertakes a merger, liquidation, disposition, relocation, or cessation of a business operation the result of which will be the permanent termination of employment of fifty (50) or more employes within a ninety (90) calendar day period shall provide written notice in accordance with subsection (2) of this section.

(2) A written statement of permanent termination of employment shall be provided by the employer to the employe no later than twenty-eight (28) calendar days prior to final termination of employment.

(3) Immediately following the receipt of notice by the employe, the employer shall forward a copy of the employment termination statement along with a letter explaining the basic nature of the change in business operations to both the commissioner and the secretary.

(4) Upon written request by the employer, the commissioner may modify the period of notice required in Section 2 of this Act for good cause as determined according to regulations promulgated by the commissioner.

(5) The commissioner shall submit a quarterly report regarding the number of employes who have been permanently terminated from employment due to merger, liquidation, disposition, relocation or cessation of a business operation to the following:

(a) The governor of the Commonwealth of Kentucky;

(b) The director of the legislative research commission;

(c) The secretary of the cabinet for human resources; and

(d) The director of bluegrass state skills corporation.

Section 3. KRS 152.991 is amended to read as follows:

(1) Any person who opens a new business or additional business location in this Commonwealth without a general business license as required by KRS 152.957 shall be fined not less than fifty dollars ($50) nor more than one hundred dollars ($100).

(2) An employer who violates any provision of this Act shall be fined one hundred dollars ($100) for each employe who, as a result of the violation, failed to receive proper notice of the termination of employment.

HB 916, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application to the board for a hearing in regard to the matter at issue and for a ruling thereon. The application must be filed within two years after the accident, or, in case of death, within two years after such death, or within two years after the cessation of voluntary payments, if any have been made. *Notwithstanding the provisions of this subsection, no application for adjustment of a claim for benefits under this chapter shall be filed until cessation of voluntary payments, unless it shall be shown that the prosecution of the employe's claim would be prejudiced by delay. Voluntary payments, as used in this section, shall mean the maximum which the employe's wages shall entitle him.*

(2) Except with respect to uncontested claims for retraining incentive benefits by reason of occupational pneumoconiosis related to exposure to coal dust, or for disability or death by reason of occupational diseases, within thirty (30) days after the application has been received the commissioner shall set the date for a pre-hearing conference, to be held as soon as practicable in view of the matter involved, and shall notify the parties at issue of the time and place of the pre-hearing conference.

(3) The pre-hearing conference shall be held at or convenient to the place where the employe resides, provided that such pre-hearing conference shall be held within the boundaries of the Commonwealth. At the pre-hearing conference, an administrative law judge shall confer informally with the parties at issue and their counsel, if any, for the purpose of defining and narrowing the issues, discussing settlement, and considering other relevant matters that may aid in the disposal of the case. If agreement upon any matter is reached, the administrative law judge shall write a memorandum setting forth the matters agreed upon. The administrative law judge and all parties shall sign the memorandum, and the administrative law judge

shall file it with the board. Once filed, the memorandum shall become a part of the record.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

[~~(5) An application for adjustment of claim shall be held in abeyance by the administrative law judge during any period voluntary payments of compensation are being made under any benefit sections of this chapter to the maximum which the employe's wages shall entitle him, unless it shall be shown that the prosecution of the employe's claim would be prejudiced by delay.~~]

HB 966, AN ACT relating to employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Drug" includes, but shall not be limited to, alcohol, amphetamine and methamphetamine, cocaine, delta-9-tetrahydrocannabinol, commonly known as marijuana, morphine, codeine, and semisynthetic derivatives of morphine such as heroin, and phencyclidine, commonly known as pcp;

(2) "Employe" means any person employed by or permitted to work for an employer;

(3) "Employer" means any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) No employer shall, either orally or in writing, request or require an employe to submit a sample of urine, blood, or other bodily fluid or tissue for drug testing as a condition of promotion or additional compensation or to avoid transfer, termination, or other adverse personnel action unless the procedure set forth in this section is followed.

(2) The employer shall have probable cause, based on specific objective facts, to believe that the employe is under the influence of a drug which impairs his faculties on the job.

(3) The employe shall be in a position where such impairment presents a clear and present danger to the physical safety or health of himself or others.

(4) The sample shall be collected:

(a) Under reasonable and sanitary conditions;

(b) With due regard to the privacy of the employe being tested; and

(c) In a manner reasonably calculated to prevent substitution or interference with the collection of a reliable sample.

(5) The employer shall have the sample labelled, stored, transported, and tested in such a way as to:

(a) Establish a proper chain of custody; and

(b) Take reasonable precautions to prevent contamination, adulteration, and tampering.

(6) The testing shall be done by scientifically accurate means.

(7) The employer shall give the employe a copy of all drug test results.

(8) The employer shall provide the employe, at the employer's expense, the opportunity to have the drug test results verified or refuted by scientifically accurate means at an independent testing facility.

(9) The employer shall provide the employe with a reasonable opportunity to rebut or explain the drug test results.

(10) Any employer and any employe, other than the employe tested, involved in any way with drug testing pursuant to this section shall keep all knowledge and records of drug testing confidential except when:

(a) Federal law mandates disclosure; or

(b) Either the knowledge is or the records are presented as evidence in a proceeding brought under Section 6 or 7 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of Section 2 of this Act, an employer may require an employe to submit to random drug testing if federal law mandates the drug testing.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall restrict an employer's ability to:

(1) Prohibit his employes from using a drug during work hours; or

(2) Discipline an employe for being under the influence of a drug during work hours.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall prevent an employer from conducting medical tests, with the express written consent of an employe, to monitor exposure to toxic or other unhealthy substances in the workplace. All of these medical tests shall be limited to the substances expressly identified in an employe's written consent form.

SECTION 6. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of drug test tampering when he intends to tamper with a drug test, and he intentionally alters, falsifies, replaces, or disposes of:

(a) The identification label of a drug test sample;

(b) A drug test sample; or

(c) A drug test result.

(2) Drug test tampering is a class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any employe injured by any act in violation of the provisions of this Act shall have a civil cause of action in the circuit court of the county where the violation occurred or in Franklin circuit court to enjoin further violations, and to recover double the actual damages sustained by him, together with the costs of the law suit, including a reasonable fee for his attorney of record.

The Committee Substitute to **HB 966** is as follows:

HB 966, AN ACT relating to employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Drug" includes, but shall not be limited to, alcohol, amphetamine and methamphetamine, cocaine, delta-9-tetrahydrocannabinol, commonly known as marijuana, morphine, codeine, and semisynthetic derivatives of morphine such as heroin, and phencyclidine, commonly known as pcp;

(2) "Employe" means any person employed by or permitted to work for an employer;

(3) "Employer" means any person, either individual, corporation, partnership, agency or firm who employs an employe and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) No employer shall, either orally or in writing, request or require an employe to submit a sample of urine, blood, or other bodily fluid or tissue for drug testing as a condition of promotion or additional compensation or to avoid transfer, termination, or other adverse personnel action unless the employer has probable cause, based on specific objective facts, to believe that the employe is under the influence of a drug which impairs his faculties on the job.

(2) The procedure set forth in this section shall be followed in the event of a drug test.

(3) The sample shall be collected:

(a) Under reasonable and sanitary conditions;

(b) With due regard to the privacy of the employe being tested; and

(c) In a manner reasonably calculated to prevent substitution or interference with the collection of a reliable sample.

(4) The employer shall have the sample labelled, stored, transported, and tested in such a way as to:

(a) Establish a proper chain of custody; and

(b) Take reasonable precautions to prevent contamination, adulteration, and tampering.

(5) The testing shall be done by scientifically accurate means.

(6) The employer shall give the employe a copy of all drug test results.

(7) The employer shall provide the employe, at the employer's expense, the opportunity to have the drug test results verified or refuted by scientifically accurate means at an independent testing facility.

(8) The employer shall provide the employe with a reasonable opportunity to rebut or explain the drug test results.

(9) Any employer and any employe, other than the employe tested, involved in any way with drug testing

pursuant to this section shall keep all knowledge and records of drug testing confidential except when:

(a) Federal law mandates disclosure; or

(b) Either the knowledge is or the records are presented as evidence in a proceeding brought under Section 6 or 7 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Notwithstanding the provisions of Section 2 of this Act, an employer may require an employe to submit to random drug testing if federal law mandates the drug testing.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall restrict an employer's ability to:

(1) Prohibit his employes from using a drug during work hours; or

(2) Discipline an employe for being under the influence of a drug during work hours.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Nothing in this Act shall prevent an employer from conducting medical tests, with the express written consent of an employe, to monitor exposure to toxic or other unhealthy substances in the workplace. All of these medical tests shall be limited to the substances expressly identified in an employe's written consent form.

SECTION 6. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of drug test tampering when he intends to tamper with a drug test, and he intentionally alters, falsifies, replaces, or disposes of:

(a) The identification label of a drug test sample;

(b) A drug test sample; or

(c) A drug test result.

(2) Drug test tampering is a class D felony.

SECTION 7. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any employe injured by any act in violation of the provisions of this Act shall have a civil cause of action in the circuit court of the county where the violation occurred or in Franklin circuit court to enjoin further violations, and to recover double the actual damages sustained by him, together with the costs of the law suit, including a reasonable fee for his attorney of record.

The Committee on Labor and Industry reported **HB 705**, **HB 809** with Committee Amendment attached thereto, and **HB 910** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 705. AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.447 is amended to read as follows:

(1) All funds collected by insurance companies from their insureds, prior to October 26, 1987, for assessments of the Kentucky reinsurance association or special fund taxes and assessments of the Kentucky revenue cabinet not previously paid, shall be paid in full by January 1, 1988 to the Kentucky workers' compensation funding commission.

(2) To ensure compliance with the provisions of subsection (1) of this section, the revenue cabinet shall conduct audits of insurance companies. The costs ofsuch audits shall be borne by the Kentucky workers' compensation funding commission. The revenue cabinet may enter an agreement with the insurance department for assistance in conducting such audits or it may hire additional auditors on a temporary basis. The audits shall commence within sixty (60) days from October 26, 1987 and shall be completed within six (6) months. The aggregate findings of such audits shall be presented to the secretary of revenue, the commissioner of insurance, the Kentucky workers' compensation funding commission and the governor.

(3) If the audits reveal noncompliance with subsection (1) of this section, the revenue cabinet shall notify the affected party of such fact. The affected party shall remit the amount in question not later than thirty (30) days following notification and the revenue cabinet shall institute a civil action in Franklin Circuit Court if remittance is not made within such thirty (30) day period.

(4) The failure of an insurance company to comply with the provisions of this section, *including the provisions contained in subsection (7) of this section,* shall constitute grounds for the revocation by the commissioner of insurance of such entity's authority to write workers' compensation coverage in the Commonwealth.

(5) The revenue cabinet shall report to the commissioner of insurance the failure of any insurance company to comply with the provisions of this section, *including the provisions contained in subsection (7) of this section,* and the commissioner shall institute revocation procedures of such entity's authority to write workers' compensation coverage in the Commonwealth.

(6) "Funds collected" as used in subsection (1) of this section shall mean all funds collected without reduction for credits, refund or returns of any type made to insureds or group members after September 1, 1987.

(7) In addition to the requirement contained in subsection (1) of this section, an insurance company shall be required to pay interest on the funds required to be remitted under this section. The required interest rate shall be eight percent (8%) on the total amount remitted by an insurance company on or before January 1, 1988. The required interest rate on funds remitted on or after January 1, 1988 shall be thirteen percent (13%) of the total amount remitted. The amounts remitted for interest shall be remitted to the Kentucky workers' compensation funding commission as required in this section. The interest required in this subsection shall be due and payable on the effective date of this Act.

HB 809, AN ACT relating to health spas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 367.905 TO 367.930 IS CREATED TO READ AS FOLLOWS:

(1) The surety bond required by subsection (1)(b) of Section 6 of this Act shall be in favor of the attorney general's division of consumer protection and shall be held for compensation to any member who suffers loss of money paid due to the insolvency of the health spa, cessation of operation of the health spa, or failure of the health spa to open for business within ninety (90) days from the sale of the first contract.

(2) The bond shall be in a form prescribed by the attorney general's division of consumer protection and shall be issued by a company authorized to transact business in the Commonwealth of Kentucky.

(3) The amount of the bond shall be computed as follows:

Number of unexpired contracts	*Amount of bond*
150 or fewer	*$10,000*
151 to 300	*$25,000*
301 or more	*$50,000*

(4) If, because of an increase in membership, a spa is required to increase the amount of its bond, it shall notify the attorney general's division of consumer protection in writing at least thirty (30) days prior to the expected increase in membership. No contract in excess of the limits stated in subsection (3) of this section shall be sold until a new bond in the required amount has been provided.

(5) A change in ownership shall not release, cancel or terminate liability under any bond previously filed unless the attorney general's consumer protection division agrees in writing to the release, cancellation or termination because the new owner has filed a new bond for the benefit of the previous owner's members, or because the former owner has paid the required refunds to its members.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367.905 TO 367.930 IS CREATED TO READ AS FOLLOWS:

(1) No contract term shall exceed thirty-six (36) months from the date the contract is entered into; however, a member may renew a contract for additional terms. No contract term shall be measured by or be for the life of the member.

(2) No contract shall require payments or financing by the member over a period in excess of thirty-six (36) months from the date the contract is entered into.

SECTION 3. A NEW SECTION OF KRS CHAPTER 367.905 TO 367.930 IS CREATED TO READ AS FOLLOWS:

(1) Any contract which does not comply with the applicable provisions of KRS 367.900 through 367.930 shall be void and unenforceable as contrary to public policy.

(2) Any waiver by a member or purchaser of a contract of any of the provisions of KRS 367.900 through 367.930 shall be deemed void and unenforceable as contrary to public policy.

SECTION 4. A NEW SECTION OF KRS CHAPTER 367.905 TO 367.930 IS CREATED TO READ AS FOLLOWS:

(1) In addition to any rights that may be conferred upon a member by KRS 367.610, no holder of a consumer credit contract, as that term is defined in KRS 367.600, shall fail to honor a member's cancellation rights and provide a refund within the time period required by KRS 367.910.

(2) Subsection (1) of this section shall apply regardless of whether the consumer credit contract is in compliance with trade regulations issued or promulgated by the federal trade commission or any regulation of the board of governors of the federal reserve system or similar federal agency having jurisdiction relating to preservation of consumer claims and defenses in credit transactions.

(3) No assignee of a health spa's right to payment pursuant to a contract not providing for an extension of credit shall fail to honor a member's cancellation rights and provide a refund within the time period required by KRS 367.910.

Section 5. KRS 367.900 is amended to read as follows:

As used in KRS 367.905 to 367.930, unless the context requires otherwise:

(1) "Health spa" means an establishment, except those defined as nonprofit organizations under 26 U.S.C. Section 509 (a), which provides for profit as one of its primary purposes, services or facilities which purport to improve the user's physical condition or appearance through weight control, exercise, dieting, or a combination of these. The term includes, but is not limited to, establishments referred to by such terms as reducing salon, spa, exercise club, exercise gym, health studio, health club, weight control center, or other similar term.

(2) "Contract" means an oral or written agreement by which one becomes a member of a health spa.

(3) "Member" means a status attained by any natural person entitling him to the services or facilities of a health spa.

(4) "Seller" means the person, corporation, partnership, association, or group engaged in the operation of a health spa as defined in this section, and who offers for sale the right to use the facilities or the services of the health spa.

(5) "Facilities" means equipment, physical structures, and other tangible property utilized by a health spa to conduct its business. The term includes, but is not limited to, saunas, whirlpool baths, gymnasiums, running tracks, swimming pools, shower areas, and exercise equipment.

(6) "Services" means programs, plans, guidance, or instruction provided by a health spa for health spa members. The term includes, but is not limited to diet planning, exercise instruction, exercise programs, and instructional classes.

(7) "Prepayment" means any payment for services or the use of facilities made before the services or facilities are made available by the health spa. It is not a prepayment if a payment for services or the use of facilities is made on the same day the services or use of the facilities is provided. Money or other consideration received by a health spa from a financial institution upon the assignment or sale of a contract shall be considered a prepayment to the extent the member is required to make prepayments to the financial institution pursuant to the contract.

(8) "Special offer or discount" means any offer of health spa services or the use of health spa facilities at a reduced price or without charge to the member or prospective member.

(9) "Contract price" means the total consideration paid by a member pursuant to a contract, including, but not limited to the following:

(a) Any nonrecurring fee charged at, or near, the beginning of a health spa membership or renewal period;

(b) All monthly fees required by the contract;

(c) All finance charges, time-price differentials, interest, and other similar fees and charges; and

(d) All charges for equipment or locker rental, credit check, financial, medical and dietary evaluation, class and training fees.

(10) "Contract term" means the total period of health spa use allowed by a member's contract, including months or time periods that are called "free" or "bonus", or that are described in any other terms suggesting that they are provided free of charge.

Section 6. KRS 367.905 is amended to read as follows:

(1) Any person, corporation, partnership, association, or group intending to open or operate a health spa within the Commonwealth, shall:

(a) File a registration statement, *accompanied by a one hundred dollar ($100) initial registration fee,* with the attorney general's division of consumer protection prior to the sale of any memberships in the Commonwealth of Kentucky. Such a registration statement shall contain the name and address of the health spa; the names and addresses of the officers, directors, and stockholders of the health spa and its parent corporation, if such an entity exists; the type of available facilities; approximate size of the health spa measured in square feet; whether or not a shower area is provided; the names and addresses of employes and their respective qualifications for employment in the health spa field; type of membership plans to be offered and their cost; and a full and complete disclosure of any completed or pending litigation initiated against the health spa and any of its officers or directors within the last three (3) years.

(b) Prior to the sale of any memberships in the Commonwealth of Kentucky, provide the attorney general's division of consumer protection with a surety bond meeting the requirements of Section 1 of this Act.

(2) A new registration statement, accompanied by an annual registration fee of fifty dollars ($50), shall be filed with the attorney general's division of consumer protection on or before July 1 of each year following the opening of the health spa.

[~~(b) Post a surety bond in the amount of fifty thousand dollars ($50,000) with the attorney general's division of consumer protection prior to the sale of any memberships in the Commonwealth of Kentucky. The bond required by this subsection shall be held for the benefit of any member who suffers loss of money paid pursuant to a contract entered into after July 15, 1982, due to the insolvency of the health spa, cessation of operation of the health spa, or failure of the health spa to open for business within ninety (90) days from the sale of the first contract.~~

~~(c) The bonding requirement set forth in paragraph (b) of this subsection does not apply to a health spa as defined by subsection (1) of KRS 367.900 if the health spa:~~

~~(i) Charges or assesses, as the result of a membership contract, an annual membership fee or membership fees which total less than one hundred dollars ($100) over a yearly period; or~~

~~(ii) Has an active membership enrollment of less than one hundred (100) members; or~~

~~(iii) Furnishes to the attorney general's division of consumer protection a copy of its financial statements, certified by its president or principal to be true and correct, or other documentation establishing to the satisfaction of the attorney general sufficient financial responsibility in at least the amount of the bond required under paragraph (b) of this subsection. Health spas exempted by the attorney general from posting a bond, under this paragraph, shall annually file documentation, as the attorney general deems appropriate, establishing sufficient financial responsibility to continue to be exempt from the bonding requirement of paragraph (b) of this subsection.~~]

(3)[~~(2)~~] Each health spa selling contracts on a prepayment basis shall deposit all funds received from such contracts in an escrow account until the health spa has remained open for a period of thirty (30) days. At the end of this thirty (30) day period, such prepayment funds shall be eligible for withdrawal at the depositor's discretion.

(4)[~~(3)~~] Each health spa registering pursuant to this statute shall maintain in the files of the health spa, a copy of its registration statement filed pursuant to this section. This registration statement shall be made available for inspection by current health spa members or prospective purchasers of health spa memberships.

(5) The registration fees required by this section shall be credited to a trust or agency account for the administrative purposes of the attorney general's division of consumer protection, as set forth in KRS 367.900 to 367.930.

(6) Each separate location where health spa services are offered shall be considered a separate health spa and shall file a separate registration statement and surety bond, even though the separate locations are owned or operated by the same owner.

[~~(4) The provisions of paragraph (b) of subsection (1) of this section and subsection (2) of this section shall not apply to a health spa as defined by subsection (1) of KRS 367.900 if the health spa is open and in operation on or before April 1, 1982.~~]

Section 7. KRS 367.910 is amended to read as follows:

(1) A fully completed copy of each contract shall be delivered to the buyer at the time the contract is signed. Every contract must constitute the entire agreement between the seller and the buyer, must be in writing, and must be signed by the member.

(2) Each contract shall state in at least ten (10) point bold faced type the following:

"NOTICE TO BUYER: DO NOT SIGN THIS CONTRACT UNTIL YOU HAVE READ ALL OF IT. ALSO, DO NOT SIGN THIS CONTRACT IF IT CONTAINS ANY BLANK SPACES."

(3) Every purchaser of a membership shall be entitled to cancel his or her contract within three (3) business days by notifying the health spa in writing by midnight of the third business day following the date of purchase of the membership contract. Written notification is deemed given if mailed or delivered by midnight of the third business day. All money collected pursuant to the contract shall be refunded to the purchaser exercising the right to cancel.

(4) *In addition to the cancellation rights stated in subsection (3) of this section, a member shall be entitled to cancellation and to a full or partial refund of the contract price as follows:*

(a) A member shall be entitled to cancel if, because of death or medical disability, the member becomes unable to use a substantial portion of the facilities or services for thirty (30) or more consecutive days. Upon receipt of written notice from the member, or from the representative of the member's estate, the health spa shall pay a refund in an amount computed by dividing the contract price by the number of weeks in the contract term and multiplying the result by the number of weeks remaining in the contract term. Members shall only receive refunds of money actually paid to the spa by them, or on their behalf. In the case of medical disability, the health spa may require the member to submit to an examination by a medical doctor agreeable to both the member and the health spa. The cost of the examination shall be borne by the health spa.

(b) A member shall be entitled to cancel if the health spa relocates more than five (5) miles from the location designated in the health spa contract. Upon receipt of written notice from the member, the health spa shall pay a refund to the member in an amount computed as provided in subsection (4)(a) of this section.

(c) A member shall be entitled to cancel if the member relocates twenty-five (25) miles or more from the residence stated in the contract, and the spa cannot provide comparable alternative facilities and services within five (5) miles of the member's new residence. Upon written notice from the member, the health spa shall pay a refund in an amount computed as provided in subsection (4)(a) of this section. The health spa may require written verification of the new residence, such as a lease, deed, or utility bill.

(d) If the health spa fails to open for business within ninety (90) days from the sale of the first contract, becomes insolvent, or ceases operation, all membership contracts shall be deemed cancelled and the spa shall pay refunds to its members. No notification from any member shall be required. Refunds shall be given in an amount computed as provided in subsection (4)(a) of this section.

(5) If written notice of cancellation is required in subsection (4) of this section, the member shall notify the health spa in writing, by certified mail, return receipt requested, or by personal delivery, to the address stated in the health spa contract. All monies to be refunded shall be paid within thirty (30) days of receipt of the cancellation notice.

(6) If a refund is required by this section and the member has executed any credit or loan agreement with the health spa to pay for use of all or part of the facilities and services, that agreement shall be cancelled and returned within the same time period as required for the refund.

(7) Each contract shall contain the following notice in at least ten (10) point boldfaced type:

"IF WITHIN **THREE** (3) BUSINESS DAYS YOU DECIDE YOU DO NOT WISH TO REMAIN A MEMBER OF THIS HEALTH SPA, YOU MAY CANCEL THIS AGREEMENT BY MAILING A NOTICE TO THE HEALTH SPA BY MIDNIGHT OF THE THIRD BUSINESS DAY FOLLOWING YOUR PURCHASE OF THE CONTRACT STATING YOUR DESIRE TO CANCEL THIS CONTRACT. THE WRITTEN NOTICE SHOULD BE MAILED TO THE FOLLOWING ADDRESS:"

(address of the health spa)

"ADDITIONAL CANCELLATION RIGHTS:

You may also cancel this contract if any of the following occur:

(a) You may cancel if, because of death or medical disability, you become unable to use a substantial portion of the spa's facilities or services for thirty (30) or more days. In the event of medical disability, you must provide the spa with a doctor's statement. In addition, the spa may require you to submit to a physical examination by a mutually agreeable medical doctor, at its cost. Your estate may cancel in the event of your death.

(b) You may cancel if the spa relocates more than five (5) miles from the location stated in the contract.

(c) You may cancel if you relocate more than twenty-five (25) miles from your residence as stated in the contract, and the spa cannot provide comparable facilities and services within five (5) miles of your new residence. The spa may require written verification of your new residence, such as a lease, deed or utility bill.

IN ORDER TO EXERCISE THESE ADDITIONAL CANCELLATION RIGHTS, YOU MUST NOTIFY THE SPA IN WRITING, BY CERTIFIED MAIL, RETURN RECEIPT REQUESTED, OR BY PERSONAL DELIVERY, TO THE ADDRESS STATED ABOVE. ALL MONIES TO BE REFUNDED SHALL BE PAID TO YOU WITHIN THIRTY (30) DAYS AFTER THE SPA'S RECEIPT OF THE CANCELLATION NOTICE."

The Committee Amendment No. 1 to **HB 809** is as follows:

Amend printed copy of **HB 809** on page 4, beginning on line 13 and ending on line 18 by bracketing and striking through the following language:

"weight control, exercise, dieting, or a combination of these. The term includes, but is not limited to, establishments referred to by such terms as reducing salon, spa, exercise club, exercise gym, health studio, health club, weight control center, or other similar term."

and by inserting in lieu thereof the following:

"participation in sports activities, fitness training, exercise, or body building. The term includes establishments that offer access to any of the following facilities: gymnasiums, swimming pools, tracks, ball courts, weight lifting equipment, exercise equipment or facilities, saunas, steambaths, or whirlpools. It does not include establishments that limit their services primarily to diet counseling and the provision of special dietary foods."

HB 910, AN ACT relating to fire protection sprinkler contractors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.550 is amended to read as follows:

As used in KRS 198B.555 to 198B.630, unless the context requires otherwise:

(1) "Department" means the department of housing, buildings and construction.

(2) "Commissioner" means the commissioner of the department.

(3) A "fire protection sprinkler contractor" is a person engaged in the preparation of technical drawings, installation, repair, alteration, extension, maintenance or inspection of fire protection sprinkler systems and has in his employment a certificate holder.

(4) A "fire protection sprinkler contractor's license" is the license issued by the commissioner to a fire protection sprinkler contractor upon application being approved, fee paid and the satisfactory completion of the requirements of KRS 198B.580. The license shall be issued in the name of the fire protection sprinkler contractor with the name or names of the certificate holder noted thereon.

(5) A "certificate holder" is an individual who has satisfactorily met and has received a certificate from the commissioner under the provisions of KRS 198B.570 or 198B.575.

(6) A "fire protection sprinkler system" is a system of piping for which technical drawings have been prepared by or preparation supervised by a certificate holder in accordance with fire protection engineering standards. The system is supplied from a reliable, constant and sufficient water, gas or chemical supply, such as a gravity tank, fire pump, reservoir or pressure tank, or connection by underground piping to a city, county, municipal water district, authorized water main or both. The sprinkler system is considered the fire protection sprinkler system for purposes of KRS 198B.550 to 198B.630, and is a network of specially sized or hydraulically designed piping installed overhead and underground in a building, structure, or area, and to which sprinklers are connected in systematic pattern. The system includes a controlling valve and a device for actuating an alarm when a system is in operation. The system is usually activated by heat from a fire and causes the discharge of water, gas or chemical over the fire area. Fire protection sprinkler systems shall include the following types: wet-pipe systems, dry-pipe systems, [~~standpipe systems,~~] pre-action systems, deluge systems, combined dry-pipe and pre-action systems, antifreeze systems and circulating closed loop systems, systems utilizing gasses or chemicals, and any other fire suppression system approved by the state fire marshal or the chief building code official of the department.

Calendar

HB 565, **HB 723**, **HB 814**, **HB 849**, **HB 976**, **HJR 126**, **HB 862**, **HB 988**, **HB 423**, **HB 424** and **HB 516** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 977 taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that it be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 341**, **HB 612**, **HB 613**, **HB 616**, **HB 476**, **HB 489**, **HB 491**, **HB 515** and **SB 8** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:12 p.m)

HB 341, **HB 612**, **HB 613**, **HB 616**, **HB 476**, **HB 489**, **HB 491**, and **HB 515** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day

HB 968, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of Committee Amendment No. 1 to **HB 968**. Agreed.

Representative B. Richardson moved that **HB 968**, as amended, be passed.

On the roll call the vote was: Yeas 90, Nays 1. (See March 15, 1988 roll call on **HB 968** - Appendix A.)

HB 968, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 968**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 944, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered

read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved the adoption of Committee Amendment No. 1 to **HB 944**. Agreed.

Representative Riner moved the adoption of Committee Amendment No. 2 to **HB 944**. Agreed.

Representative Riner moved that **HB 944**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 3. (See March 15, 1988 roll call on **HB 944** - Appendix A.)

HB 944, as amended, was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 944**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 855, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative O'Brien moved the adoption of Committee Amendment No. 1 to **HB 855**. Agreed.

Representative Scorsone moved the adoption of Floor Amendment No. 1 to **HB 855**. Agreed.

Representative O'Brien moved that **HB 855**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 7. (See March 15, 1988 roll call on **HB 855** - Appendix A.)

HB 855, as amended, was passed and the title agreed to.

Representative O'Brien moved that the vote by which **HB 855**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 760 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hancock moved that **HB 760** be passed.

On the roll call the vote was: Yeas 76, Nays 19. (See March 15, 1988 roll call on **HB 760** - Appendix A.)

HB 760 was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 760** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 354, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved the adoption of Committee Amendment No. 1 to **HB 354**. Agreed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to **HB 354**. Agreed.

Representative Farrow moved that **HB 354**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 15, 1988 roll call on **HB 354** - Appendix A.)

HB 354, as amended, was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 354**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Message from the Governor

Announcing veto of **HB 564**.

The Veto message on **HB 564** is as follows:

Pursuant to the authority vested in me by Section 88 of the Constitution of the Commonwealth of Kentucky, I, Wallace G. Wilkinson, Governor of the Commonwealth of Kentucky, hereby veto House Bill 564. The House Amendment would effectively preclude numerous insurance carriers currently authorized to do business in Kentucky from selling liability, property, and workers' compensation insurance coverage to county governments. The state's local finance officer is not in a position to make a judgment as to whether or not an insurer has sufficient capital and reserves to pay all potential claims against it. The reduction in competition resulting from this bill would inevitably lead to higher costs to county governments for such coverage.

Orders of the Day (continued)

HB 750, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Substitute to **HB 750**. Agreed.

Representative Long moved that **HB 750**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1988 roll call on **HB 750** - Appendix A.)

HB 750, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 750**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 443, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved the adoption of Committee Substitute to **HB 443**. Agreed.

Representative Nett moved that **HB 443**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 51, Nays 35. (See March 15, 1988 roll call on **HB 443** - Appendix A.)

HB 443, by way of Committee Substitute, was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 443**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 283, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

The Senate Committee Amendment No. 1 to **HB 283** is as follows:

Amend printed copy of **HB 283** on page 1, lines 1 through 13, by deleting said lines in their entirety.

On page 1, line 14, Section 2 becomes Section 1.

On page 5, line 7, Section 3 becomes Section 2.

On page 5, line 24, after the word "notwithstanding" by inserting the following language: "*except for motor vehicles purchased by said qualified businesses for the purpose of being leased to a customer for a period greater than ninety (90) days*" and on page 5, line 25, by placing brackets around the "," and striking through the same.

On page 5, line 26, by deleting the word "*This*".

On page 6, lines 1 and 2, by deleting said lines in their entirety.

On page 6, line 20, Section 4 becomes Section 3.

On page 7, line 26, Section 5 becomes Section 4.

On page 11, line 1, Section 6 becomes Section 5.

On page 12, line 20, Section 7 becomes Section 6.

On page 13, line 2, Section 8 becomes Section 7.

On page 13, line 18, Section 9 becomes Section 8.

On page 14, line 16, Section 10 becomes Section 9.

On page 15, line 19, Section 11 becomes Section 10.

On page 16, line 18, Section 12 becomes Section 11.

On page 17, line 4, Section 13 becomes Section 12.

On page 17, line 17, Section 14 becomes Section 13.

Representative Rapier moved that the House concur in Senate Committee Amendment No. 1 to **HB 283**. Agreed.

Representative Rapier moved that **HB 283**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 80, Nays 7. (See March 15, 1988 roll call on **HB 283** - Appendix A.)

HB 283, as amended by the Senate, was passed and the title agreed to.

Representative Rapier moved that the vote by which **HB 283**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 665, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 665**. Agreed.

Representative L. Clark moved the adoption of Floor Amendment No. 1 to **HB 665**.

On the roll call the vote was yeas 65-Ackerson, Adams, Adkins, Altman, Ark, Ballard, Barrows, Blandford, Blevins, Bronger, M. Brown, Bruce, Burch, Casebier, L. Clark, P. Clark, Cline, Crupper, Cyrus, Deskins, Donnermeyer, Farrow, Freibert, Geveden, Gray, Gregory, Guenthner, Handy, J. Harper, Hatcher, Heleringer, R. Jones, T. Jones, Layman, Lear, LeMaster, Lile, Little, Lundergan, Mack, McBee, McElroy, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, P. Richardson, Riner, Scorsone, B. Smith, R. Smith, Strong, Stumbo, Turner, Will, Worthington, Yates. Nays 20-Allen, J. Brown, Castleman, Clarke, Curd, Hancock, K. Harper, Hoover, Hourigan, A. Jones, Maggard, Mason, Meyer, Napier, Noland, Reinhardt, Robinson, Seum, Todd, Walker.

Floor Amendment No. 1 to **HB 665** was adopted.

Representative Worthington moved the adoption of Floor Amendment No. 6 to **HB 665**.

On the roll call the vote was yeas 48-Ackerson, Altman, Ark, Arnold, Ballard, Barrows, Blandford, J. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Crupper, Curd, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gray, Gregory, Handy, Hourigan, Johnson, A. Jones, R. Jones, Layman, Long, Lundergan, Lyne, McBee, McElroy, Meyer, Morris, Napier, Northup, Pritchett, Rapier, Richards, B. Richardson, Ridley, B. Smith, Todd, Turner, White, Worthington. Nays 46-Adams, Adkins, Allen, Blevins, Bronger, Clarke, Cline, Cyrus, Deskins, Freibert, Guenthner, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Jackson, T. Jones, Keith, Kerr, Lear, Lefevers, LeMaster, Lile, Little, Mack, Maggard, Mason, Moberly, Nett, Noe, Noland, O'Brien, Overstreet, Priddy, Reinhardt, Robinson, Scorsone, Seum, Siler, R. Smith, Strong, Stumbo, Walker, Will, Yates.

Floor Amendment No. 6 to **HB 665** was adopted.

Representative Little moved the adoption of Floor Amendment No. 15 to **HB 665**.

On the roll call the vote was yeas 33-Adkins, Allen, Ballard, Blevins, J. Brown, M. Brown, Bruce, Cline, Cyrus, Deskins, Hatcher, Jackson, Johnson, Keith, Lefevers, Little, Maggard, Mason, McElroy, Morris, Noe, Overstreet, Pritchett, Rapier, Reinhardt, Ridley, Robinson, Seum, Siler, Strong, Stumbo, Turner, White. Nays 57-Ackerson, Adams, Altman, Ark, Arnold, Barrows, Bronger, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Donnermeyer, Farrow, Freibert, Geveden, Gray, Gregory, Guenthner, Hancock, Handy, K. Harper, Heleringer, Hoover, Hourigan, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, LeMaster, Lile, Long, Lundergan, Lyne, Mack, McBee, Meyer, Moberly, Nett, Northup, O'Brien, Priddy, B. Richardson, P. Richardson, Riner, Scorsone, Todd, Walker, Will, Worthington, Yates.

Floor Amendment No. 15 to **HB 665** was rejected.

Representative Gray moved the adoption of Floor Amendment No. 3 to **HB 665**.

Representative Worthington inquired whether Floor Amendment No. 3 was germane to the bill.

The Speaker ruled Floor Amendment No. 3 was not germane.

Representative Blevins moved the adoption of Floor Amendment No. 17 to **HB 665**.

On the roll call the vote was yeas 41-Ackerson, Adkins, Allen, Altman, Ballard, Blevins, J. Brown, M. Brown, Bruce, Castleman, Cline, Cyrus, Deskins, Ford, Gedling, Geveden, Gray, Hoover, Hourigan, Jackson, Keith, Layman, Lefevers, Little, Lundergan, Maggard, Mason, McElroy, Morris, Napier, Overstreet, Pritchett, Rapier, Reinhardt, B. Richardson, Ridley, Robinson, Seum, Siler, Todd, Turner. Nays 51-Ark, Arnold, Barrows, Bronger, Burch, Callahan, Casebier, L. Clark, P. Clark, Clarke, Crupper, Curd, Donnermeyer, Farrow, Freibert, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Lear, LeMaster, Lile, Long, Mack, McBee, Moberly, Nett, Noe, O'Brien, Preston, Priddy, P. Richardson, Riner, Scorsone, R. Smith, Strong, Stumbo, Walker, White, Will, Worthington, Yates.

Floor Amendment No. 17 to **HB 665** was rejected.

Representative Worthington moved that **HB 665**, as amended, be passed.

On the roll call the vote was: Yeas 58, Nays 36. (See March 15, 1988 roll call on **HB 665** - Appendix A.)

HB 665, as amended, was passed and the title agreed to.

Representative Worthington moved that the vote by which **HB 665**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 935, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Meyer moved the adoption of Floor Amendment No. 2 to **HB 935**. Agreed.

Representative Meyer moved that **HB 935**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 7. (See March 15, 1988 roll call on **HB 935** - Appendix A.)

HB 935, as amended, was passed and the title agreed to.

Representative Meyer moved that the vote by which **HB 935**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative T. Jones moved the adoption of Legislative Citation No. 69. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds SHIRLEY DUFF Assistant Superintendent of the Anderson County Schools for your selection as one of the outstanding up and coming school managers in North America. You have made a difference in your school system by spearheading the gifted and talented program for students K through 12, reforming science in grades 4 through 6 with a hands on program and instituting an individualized kindergarten program which evaluates children as they enter school so they can begin their education with the kind of programs they need.

The House of Representatives joins Representative Tom Jones in commending you and wishing you every success in your future endeavors.

HB 655, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Keith moved the adoption of Floor Amendment No. 1 to **HB 655**. Rejected.

Representative Ford moved that **HB 655** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 15, 1988 roll call on **HB 655** - Appendix A.)

HB 655 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 655** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 500, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Brown moved the adoption of Committee Substitute to **HB 500**. Agreed.

Representative J. Brown moved that **HB 500**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 15, 1988 roll call on **HB 500** - Appendix A.)

HB 500, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Brown moved that the vote by which **HB 500**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **SB 217** and **SB 223** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:45 p.m.)

Orders of the Day (continued)

HB 484, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of Committee Substitute to **HB 484**. Agreed.

Representative Crupper moved that **HB 484**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1988 roll call on **HB 484** - Appendix A.)

HB 484, by way of Committee Substitute, was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 484**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 617 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HB 617** be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 15, 1988 roll call on **HB 617** - Appendix A.)

HB 617 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 617** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 660 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ridley moved that **HB 660** be passed.

On the roll call the vote was: Yeas 58, Nays 26. (See March 15, 1988 roll call on **HB 660** - Appendix A.)

HB 660 was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 660** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 735 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved that **HB 735** be passed.

On the roll call the vote was: Yeas 74, Nays 14. (See March 15, 1988 roll call on **HB 735** - Appendix A.)

HB 735 was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 735** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 124 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved that **HCR 124** be passed.

On the roll call the vote was: Yeas 83, Nays 1. (See March 15, 1988 roll call on **HCR 124** - Appendix A.)

HCR 124 was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HCR 124** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 125 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HCR 125** be passed.

On the roll call the vote was: Yeas 80, Nays 4. (See March 15, 1988 roll call on **HCR 125** - Appendix A.)

HCR 125 was passed and the title agreed to.

Representative Burch moved that the vote by which **HCR 125** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 132 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HJR 132** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1988 roll call on **HJR 132** - Appendix A.)

HJR 132 was passed and the title agreed to.

Representative Burch moved that the vote by which **HJR 132** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 94 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved that **HJR 94** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1988 roll call on **HJR 94** - Appendix A.)

HJR 94 was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HJR 94** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 5, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

The Senate Committee Amendment No. 1 to **HB 5** is as follows:

Amend printed copy of **HB 5** on page 2, line 14, after the word "*than*" by deleting the words "*twenty-five dollars ($25.00)*" and inserting in lieu thereof the words "*one hundred dollars ($100.00)*".

Representative Bruce moved that the House concur in Senate Committee Amendment No. 1 to **HB 5**. Agreed.

Representative Bruce moved that **HB 5**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 15, 1988 roll call on **HB 5** - Appendix A.)

HB 5, as amended by the Senate, was passed and the title agreed to.

Representative Bruce moved that the vote by which **HB 5**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 840 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McBee moved that **HB 840** be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 15, 1988 roll call on **HB 840** - Appendix A.)

HB 840 was passed and the title agreed to.

Representative McBee moved that the vote by which **HB 840** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **HB 776** and **HB 767** be recommitted to the Committee on Judiciary-Criminal. Agreed.

Representative Stumbo moved that the rules be suspended to waive the three day posting requirement on **HB 176** and **HB 959** in the Committee on Appropriations and Revenue. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 162, by Representative K. Harper: A RESOLUTION to adjourn in memory of former state legislator Alex McIntyre, Jr.

HR 163, by Representatives B. Richardson and Blevins: A RESOLUTION directing the Interim Joint Committee on Energy to study the problems associated with the disposal of wood waste generated by the forest products industry.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Business Organizations and Professions: **SB 261**, **SB 158**.

Education: **HB 634**.

Agriculture and Small Business: **HB 753**.

State Government: **SB 264**, **SB 297**.

Cities: **HB 911**.

Appropriations and Revenue: **HJR 51**.

Judiciary-Criminal: **HB 983**, **HB 559**, **HB 925**, **SB 179**, **HB 948**.

Counties and Special Districts: **SB 336**.

The Clerk announced **HB 1010** has been withdrawn from consideration by the Committee on Education.

Report of Committees

The Committee on State Government reported **HB 213**, **HB 214**, **HB 301**, **HB 458** with Committee Substitute attached thereto, **HB 901**, **HB 1021**, **HB 1022** with Committee Substitute attached thereto, and **HJR 115** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 213, AN ACT proposing an amendment to Sections 70, 72, 73, 82, and 91 of the Constitution of Kentucky relating to the joint election of the governor and lieutenant governor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 70 of the Constitution of Kentucky be amended to read as follows:

The Governor and Lieutenant Governor [~~He~~] shall be elected for the term of four years by the qualified voters of the State. *They shall be elected jointly by the casting by each voter of a single vote applicable to both offices, as shall be provided by law.* The *slate of candidates* [~~person~~] having the highest number of votes *cast jointly for them for Governor and Lieutenant Governor* shall be *elected* [~~Governor~~]; but if two or more *slates of candidates* shall be equal and highest in votes, the election shall be determined by lot in such manner as the General Assembly may direct.

Section 2. It is proposed that Section 72 of the Constitution of Kentucky be amended to read as follows:

The Governor and the Lieutenant Governor [~~He~~] shall be at least thirty years of age, and have been a citizen and a resident of Kentucky for at least six years next preceding *their* [~~his~~] election. *The duties of the Lieutenant Governor shall be prescribed by law.*

Section 3. It is proposed that Section 73 of the Constitution of Kentucky be amended to read as follows:

The Governor and Lieutenant Governor [~~He~~] shall commence the execution of the duties of *the* [~~his~~] office on the fifth Tuesday succeeding *the* [~~his~~] election, and shall continue in the execution thereof until *a* [~~his~~] successor shall have qualified.

Section 4. It is proposed that Section 74 of the Constitution of Kentucky be amended to read as follows:

The Governor and Lieutenant Governor [~~He~~] shall at stated times receive for *the* [~~his~~] services *of the office* a compensation to be fixed by law.

Section 5. It is proposed that Section 82 of the Constitution of Kentucky be amended to read as follows:

A Lieutenant Governor [~~shall be chosen at every regular election for Governor, in the same manner, to continue in office for the same time, and possess the same qualifications as the Governor. He~~] shall be ineligible to the office of Lieutenant Governor for the succeeding four (4) years after the expiration of the term for which he shall have been elected.

Section 6. It is proposed that Section 91 of the Constitution of Kentucky be amended to read as follows:

A Treasurer, Auditor of Public Accounts, Register of the Land Office, Commissioner of Agriculture, Labor and Statistics, Secretary of State, Attorney-General and Superintendent of Public Instruction, shall be elected by the qualified voters of the State at the same time the Governor *and Lieutenant Governor are* [~~is~~] elected, for the term of four years, each of whom shall be at least thirty years of age at the time of his election, and shall have been a resident citizen of the State at least two years next before his election. The duties of all these officers shall be such as may be prescribed by law, and the Secretary of State shall keep a fair register of and attest all the official acts of the Governor, and shall, when required, lay the same and all papers, minutes and vouchers relative thereto before either House of the General Assembly. The officers named in this section shall enter upon the discharge of their duties the first Monday in January after their election, and shall hold their offices until their successors are elected and qualified.

Section 7. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 214, AN ACT proposing to amend Sections 84, 85, and 87 of the Constitution of Kentucky relating to the absence of officers from the Commonwealth.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 84 of the Constitution of Kentucky be amended to read as follows:

Should the Governor be impeached and removed from office, die, refuse to qualify, resign, [~~be absent from the State,~~] or be, from any cause, unable to discharge the duties of his office, the Lieutenant Governor shall exercise all the power and authority appertaining to the office of Governor until another be duly elected and qualified, or the Governor shall [~~return or~~] be able to discharge the duties of his office. On the trial of the Governor, the Lieutenant Governor shall not act as President of the Senate or take part in the proceedings, but the Chief Justice of the Court of Appeals shall preside during the trial.

Section 2. It is proposed that Section 85 of the Constitution of Kentucky be amended to read as follows:

A President pro tempore of the Senate shall be elected by each Senate as soon after its organization as possible, the Lieutenant Governor vacating his seat as President of the Senate until such election shall be made; and as often as there is a vacancy in the office of President pro tempore, another President pro tempore of the Senate shall be elected by the Senate, if in session. And if, during the vacancy of the office of Governor, the Lieutenant Governor shall be impeached and removed from office, refuse to qualify, resign, *or* die [~~or be absent from the State~~], the President pro tempore of the Senate shall in like manner administer the government: Provided, Whenever a vacancy shall occur in the office of Governor before the first two years of the term shall have expired, a new election for Governor shall take place to fill such vacancy.

Section 3. It is proposed that Section 87 of the Constitution of Kentucky be amended to read as follows:

If the Lieutenant Governor shall be called upon to administer the government, and shall, while in such administration, resign, *or* die, [~~or be absent from the State during the recess of the General Assembly,~~] if there be no President pro tempore of the Senate, it shall be the duty of the Secretary of State, for the time being, to convene the Senate for the purpose of choosing a President; and until a President is chosen, the Secretary of State shall administer the government. If there be no Secretary of State to perform the duties devolved upon him by this section, [~~or in case that officer be absent from the State,~~] then the Attorney-General, for the time being, shall convene the Senate for the purpose of choosing a President, and shall administer the government until a President is chosen.

Section 4. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time or in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 116.415.

HB 301. AN ACT proposing an amendment to the Kentucky Constitution relating to impeachment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 66 of the Constitution of Kentucky be amended to read as follows:

The House of Representatives shall have the sole power of impeachment. *The House shall convene to consider impeachment proceedings upon the call of a majority of the following House members: the speaker; speaker pro tempore; and the minority and majority floor leaders, caucus chairmen, and whips.*

Section 2. It is proposed that Section 67 of the Constitution of Kentucky be amended to read as follows:

All impeachments shall be tried by the Senate. *The Senate shall convene to try an impeachment either five days subsequent to House passage of an impeachment order, or earlier upon the call of the Senate president pro tempore.* When sitting for that purpose, the Senators shall be upon oath or affirmation. No person shall be convicted without the concurrence of two-thirds of the Senators present.

Section 3. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 458, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective August 1, 1986, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and eighty-five hundredths percent (1.85%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundrd forty dollars ($240) multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) *(a)* Upon service retirement prior to normal retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits. [~~except that~~]

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service. *A member who has earned vested service credit in a retirement system, other than the teachers' retirement system, sponsored by a state institution of higher education may count such vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. Such credit from a state institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of teachers' retirement system credit pursuant to KRS 61.680(2)(a).*

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 161.600 is amended to read as follows:

(1) Effective July 1, 1978, a member of the retirement system may qualify for service retirement by

meeting either of the following requirements:

(a) Attainment of age fifty-five (55) years and completion of five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941;

(b) Completion of thirty (30) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941. A member having less than thirty (30) years of service may retire with benefits reduced according to the following schedule:

29 years - 92% of benefits

28 years - 84% of benefits

27 years - 76% of benefits; and

(c) Benefits will be reduced in accordance with KRS 161.620 for persons qualifying under paragraph (a) of this subsection who are less than age sixty (60) years.

(2) Any member shall be automatically retired as of July 1 next following his seventieth (70th) birthday, providing, however, that a member reaching age seventy (70) and having fewer than five (5) years of Kentucky service, two (2) years of which are subsequent to July 1, 1941, shall receive a refund of the member's accumulated contributions as provided in KRS 161.470(6) in lieu of a retirement annuity.

(3) Any person who has been a teacher in Kentucky for twenty-seven (27) years or more and who withdraws from teaching after July 1, 1941, and before reaching the age of sixty-five (65) years, may continue to pay into the fund each year, until the end of the fiscal year in which he reaches the age of sixty-five (65) years, the current contribution rate based on the annual compensation received during his last full year as a teacher. If he so elects he shall at any time be entitled to receive a retirement allowance as provided in KRS 161.620. No member shall make contributions as provided for above if such member is at the same time making contributions to another retirement system in Kentucky supported wholly or in part by public funds.

(4) Service credit in the Kentucky employes retirement system, the state police retirement system, the legislators' retirement plan, the county employes or the judicial retirement system may be used in meeting the service requirements of subsection (1)(a) and (b) of this section, provided such service is subsequent to July 1, 1956. *Vested service credit in a retirement system, other than the teachers' retirement system, sponsored by a state institution of higher education may be used in meeting the service requirements of subsection (1)(b) of this section, but such credit shall not be used to calculate the retirement allowance pursuant to KRS 161.620. The provisions of this subsection shall not be construed to limit the use of teachers' retirement system credit pursuant to KRS 61.680(2)(a).*

(5) No retirement annuity shall be effective until written application and option election forms are filed with the retirement office in accordance with regulations of the board of trustees.

(6) The surviving spouse of an active contributing member, if named as beneficiary of the member's account, may purchase retirement credit that the member was eligible to purchase prior to his death.

Section 3. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and to all other provisions thereof. Thereafter employe contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement a member's accounts under the legislators' retirement plan, state police retirement system, Kentucky employes' retirement system, county employes' retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. *Vested service credit in a retirement system, other than the teachers' retirement system, sponsored by a state institution of higher education and accepted by the Kentucky*

employes retirement system, the county employes retirement system or the teachers' retirement system, may be used to determine eligibility for thirty-year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes' retirement system or county employes' retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes' retirement system or county employes' retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system who becomes the holder of an office entitling him to membership in the judicial retirement plan or the legislators' retirement plan, but who does not elect within thirty (30) days after taking office in such service to participate in such plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system. In that event, the agency employing the member shall withhold employe contributions, or picked up employe contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the judicial retirement plan or the legislators' retirement plan, who does not elect within thirty (30) days after taking office to participate in such plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the teachers' retirement system, shall participate in the Kentucky employes' retirement system.

(4) (a) Prior to July 1, 1976 a person entering the service of an employer participating in the Kentucky employes' retirement system or the county employes' retirement system with service credit in the teachers' retirement system and who desiretain membership in the teachers' retirement system, and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employes' retirement system or the county employes' retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system and who does not elect within thirty (30) days after taking office to participate in the legislators' retirement plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky employes' retirement system unless an election to retain membership in the teachers' retirement system is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the teachers' retirement system for the same period of service under the legislators' retirement plan or the Kentucky employes' retirement system as a member of the general assembly, but contributions made to the teachers' retirement system while a member of the general assembly shall be transferred to the legislators' retirement plan as provided for in KRS 6.535 when the member elects to join the legislators' retirement plan, and service credit in the legislators' retirement plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974 any member of the Kentucky employes' retirement system or county employes retirement system who is working in a position covered by one (1) of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up such employe contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky employes' retirement system or county employes' retirement system who is working in more than one (1) position covered by one (1) of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the state police retirement system, Kentucky employes' retirement system, county employes' retirement system or teachers' retirement system, but who is a member of one (1) of such systems or is a former member of one (1) or more of such systems with valid service credit therein, will become eligible for service retirement benefits attributable to the amount of his actual service credit in each such system in which he has service credit when his combined service credit in all such systems, plus any service credit he has in the judicial retirement plan or legislators' retirement plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

The Committee Substitute to **HB 458** is as follows:

HB 458, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.595 is amended to read as follows:

(1) Effective August 1, 1986, upon retirement at normal retirement date, or subsequent thereto, a member may receive an annual retirement allowance, payable monthly during his lifetime, which shall consist of an amount equal to one and eighty-five hundredths percent (1.85%) of final compensation multiplied by the number of years of service credit, except that:

(a) The annual normal retirement allowance for members of the general assembly, who serve during the 1974 or 1976 general assembly, and will have eight (8) years or more of total legislative service as of January 6, 1978, shall not be less than two hundrd forty dollars ($240) multiplied by the number of years of service as a member of the general assembly;

(b) The annual normal retirement allowance for members of the general assembly who will have fewer than eight (8) years of service as of December 31, 1975, shall be as prescribed in Chapter 116, section 36(1), Acts of the 1972 general assembly for legislative service prior to January 1, 1974;

(c) Former members of the general assembly who have eight (8) or more years of legislative service prior to the 1976 regular session are eligible for an increased retirement allowance of $240 times the years of legislative service, provided such member pays to the Kentucky employes retirement system thirty-five (35) percent of the actuarial cost of the higher benefit, as determined by the board, except that a former member with sixteen (16) or more years of legislative service, or his beneficiary, who is receiving a retirement allowance, also is eligible under this section and may apply for a recomputation of his retirement allowance. The employer's share of sixty-five (65) percent of such computed actuarial cost shall be paid from the state treasury to the Kentucky employes retirement system upon presentation of a properly documented claim to the finance and administration cabinet. If any such member with sixteen (16) or more years of legislative service previously applied for and is receiving a retirement allowance, he may reapply and his retirement allowance shall be recomputed in accordance with this paragraph, and he shall thereafter be paid in accordance with the option selected by him at the time of the reapplication;

(d) The annual normal retirement allowance for a member with ten (10) or more years of service, in the Kentucky employes retirement system, at least one (1) of which is current service, shall not be less than five hundred twelve dollars ($512); and

(e) The annual retirement allowance for a member of the Kentucky employes retirement system or county employes retirement system shall not exceed the maximum benefit as set forth in the Internal Revenue Code.

(2) *(a)* Upon service retirement prior to normal retirement date, a member may receive an annual

retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits. [~~except that~~]

(b) There shall be no reduction in the retirement allowance of the member who has thirty (30) or more years of service credit at least fifteen (15) of which are current service. *A member who has earned vested service credit in a retirement system, other than the teachers' retirement system, sponsored by a Kentucky institution of higher education may count such vested service toward attaining thirty (30) years of service credit to qualify for an unreduced retirement allowance. Such credit from a Kentucky institution of higher education shall not be used, however, to calculate his retirement allowance pursuant to this section. The provisions of this paragraph shall not be construed to limit the use of teachers' retirement system credit pursuant to KRS 61.680(2)(a).*

(3) The retirement allowance shall be calculated by using the member's known creditable compensation prior to his last month's employment and an estimate of his creditable compensation during the last month he was employed. Based upon this calculation, the state treasurer shall be requested to issue the initial retirement payment.

(4) A new calculation shall be made when the official report has been received of the member's creditable compensation during his last month's employment. However, the retirement allowance determined in accordance with subsection (3) of this section shall be the official retirement allowance unless the new calculation derives an amount which is one dollar ($1) greater or less than the amount of the initial retirement payment.

Section 2. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employe shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and to all other provisions thereof. Thereafter employe contributions shall be picked up by the employer pursuant to KRS 61.560 (4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652 and 61.510 to 61.692 and 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement a member's accounts under the legislators' retirement plan, state police retirement system, Kentucky employes' retirement system, county employes' retirement system and teachers' retirement system shall be consolidated for the purpose of determining eligibility and amount of benefits. *Vested service credit in a retirement system, other than the teachers' retirement system, sponsored by a Kentucky institution of higher education and accepted by the Kentucky employes retirement system or the county employes retirement system, may be used to determine eligibility for thirty-year retirement but not the amount of benefits.* The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he must obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate such prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the board of his desire to maintain separate retirement accounts in the state police retirement system, Kentucky employes' retirement system or county employes' retirement system, or if he is a member of the state police retirement system or is working in a hazardous position under the Kentucky employes' retirement system or county employes' retirement system and as a result of an act in line of duty becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service his current service in such system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system who becomes the holder of an office entitling him to membership in the judicial retirement plan or the legislators' retirement plan, but who does not elect within thirty (30) days after taking office in such service to participate in such plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky employes' retirement system, state police retirement system or the county employes' retirement system. In that event, the agency employing the member shall withhold employe contributions,

or picked up employe contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the judicial retirement plan or the legislators' retirement plan, who does not elect within thirty (30) days after taking office to participate in such plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the teachers' retirement system, shall participate in the Kentucky employes' retirement system.

(4) (a) Prior to July 1, 1976 a person entering the service of an employer participating in the Kentucky employes' retirement system or the county employes' retirement system with service credit in the teachers' retirement system and who desires to retain membership in the teachers' retirement system, and who is permitted by that system to continue is hereby exempt from participating in the Kentucky employes' retirement system or the county employes' retirement system.

(b) Any person who has elected to retain membership in the teachers' retirement system as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, provided he elects to cancel his option prior to January 1, 1977.

(c) Any member of the general assembly who upon election is a contributing member of the teachers' retirement system and who does not elect within thirty (30) days after taking office to participate in the legislators' retirement plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky employes' retirement system unless an election to retain membership in the teachers' retirement system is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the teachers' retirement system for the same period of service under the legislators' retirement plan or the Kentucky employes' retirement system as a member of the general assembly, but contributions made to the teachers' retirement system while a member of the general assembly shall be transferred to the legislators' retirement plan as provided for in KRS 6.535 when the member elects to join the legislators' retirement plan, and service credit in the legislators' retirement plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974 any member of the Kentucky employes' retirement system or county employes retirement system who is working in a position covered by one (1) of these retirement systems and his employe contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up such employe contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership as subsection (2) of this section eliminates the necessity of such transfers.

(6) Any member of the Kentucky employes' retirement system or county employes' retirement system who is working in more than one (1) position covered by one (1) of these retirement systems, will have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, then an accumulation of all hours worked will be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection (3) of this section, a person who does not have the amount of service required for service retirement in the state police retirement system, Kentucky employes' retirement system, county employes' retirement system or teachers' retirement system, but who is a member of one (1) of such systems or is a former member of one (1) or more of such systems with valid service credit therein, will become eligible for service retirement benefits attributable to the amount of his actual service credit in each such system in which he has service credit when his combined service credit in all such systems, plus any service credit he has in the judicial retirement plan or legislators' retirement plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system.

Section 3. KRS 61.645 is amended to read as follows:

(1) The system shall be administered by the board of trustees of the Kentucky retirement systems composed of nine (9) members, who shall be selected as follows:

(a) The commissioner of personnel shall serve as trustee for as long as he occupies the position of commissioner under KRS 18A.015 except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who must be members or retired from the county employes retirement system, elected by the members of the county employes retirement system;

(c) One (1) trustee, who must be a member or retired from the state police retirement system, elected by the members of the state police retirement system;

(d) Two (2) trustees, who must be members or retired from the Kentucky employes retirement system, elected by the members of the Kentucky employes retirement system; and

(e) Three (3) trustees appointed by the governor of the Commonwealth.

(2) The board is hereby granted the powers and privileges of a corporation including, but not limited to the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing and other professional services as its statutory purpose may require without limitations of KRS 45.360;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45 and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3) (a) Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section;

(b) The trustee to be elected by the members of the county employes retirement system who replaces the attorney general on the board shall have an initial term expiring on March 31, 1977 and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the attorney general serving until such elected member has been duly qualified and administered the oath of office;

(c) The term of office of the trustee elected by the membership of the Kentucky employes retirement system which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected the board shall nominate not less than six (6) months before a term of office of a trustee is due to expire at least three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, social security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by said retirement system members;

(c) Within three (3) months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the tabulating committee in care of a predetermined box number at the United States Post Office, Frankfort, Kentucky. Access to this post-office box shall be limited to the tabulating committee consisting of three (3) discreet persons appointed by the general manager to count the ballots and tabulate the votes. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his social security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The tabulating committee shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and should the commissioner of personnel resign his position as trustee it shall be filled by appointment made by the governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee may serve in more than one (1) position as trustee on the board and should a trustee be in more than one (1) position as trustee on the board, he is hereby permitted a choice of resigning any position. No trustee shall be subject to removal from office except upon conviction of a felony, or of a misdemeanor involving moral turpitude.

(7) Trustees who do not otherwise receive a salary from the state treasury shall receive a per diem of sixty dollars ($60.00) for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with normal state regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice-chairman. A majority of the trustees shall constitute a quorum, and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager, and fix his compensation without limitation by the provisions of KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint such employes as he deems necessary. Appointees deemed to be in a policy making position shall be unclassified and their salaries shall be determined by the board. Other appointees shall be subject to the personnel classification system, and salaries shall be subject to the commissioner of personnel;

(c) Require the general manager and such employes as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions and make all rules and regulations, not inconsistent with the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852, that it deems necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any of the provisions of KRS 61.515 to 61.705 and 16.510 to 16.652 and 78.520 to 78.852 are in conflict with federal statute or regulation, such provisions shall not be available to the member and the board shall have the authority to adopt alternative rules and regulations that are in conformance with federal statute and regulation.

(10) All employes of said board shall serve during its will and pleasure.

(11) The attorney general, or an assistant designated by him, may attend each meeting of the board and shall receive the agenda, board minutes and other information distributed to trustees of the board and the attorney general may act as legal adviser and attorney for the board and the board is hereby authorized to contract for legal services notwithstanding the limitations of KRS Chapter 12.

(12) The board shall prepare and publish an annual financial report showing all receipts, disbursements, assets and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the auditor of public accounts to perform the audit. If the audit is performed by an independent certified public accountant, the auditor of public accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The board shall make copies of the audit required by this subsection available for examination by any member, retiree or beneficiary in the office of the general manager of the Kentucky retirement systems and in such other places as may be necessary to make the audit available to all members, retirees and beneficiaries. A copy of the annual audit shall be sent to the legislative research commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. The expenses incurred by the board in the administration of the system during any fiscal year shall not exceed two percent (2%) of the total employer and member contributions during such fiscal year.

(14) Any person adversely affected by a decision of the board involving KRS 16.510 to 16.652 and 61.515 to 61.705 and 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within one hundred and twenty (120) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;

2. On an informed basis; and

3. In a manner he honestly believes to be in the best interest of the Kentucky retirement systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky retirement systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky retirement systems whom the trustee honestly believes to be reliable and competent in the matters presented;

2. Legal counsel, public accountants, actuaries or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or

3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (c) of this section unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and

2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e) 1 and (e) 2 of this section, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to the effective date of this Act.

HB 901. AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) In a new proposed administrative regulation there shall be no underlining or bracketing.

(2) In all proposed amendments to administrative regulations, the proposed new words shall precede the proposed deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all proposed new words; and

(b) Place the proposed deleted words in brackets and strike through these words with hyphens.

(3) No administrative regulation shall be amended by reference to a section only. A proposed amendment shall contain the full text of the administrative regulation being amended.

SECTION 2. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

In drafting administrative regulations, the administrative body shall comply with the following:

(1) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases.

(2) A duty, obligation or prohibition shall be expressed by "shall" or "shall not." "Should," "could" or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may."

(3) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or." When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word, "or" shall be used.

(4) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear.

(5) If definitions are used, they shall be placed in the first section of a proposed administrative regulation. This section shall be titled "Definitions." In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

(a) When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings; or

(b) To avoid repetition of a phrase; or

(c) To limit or extend the provisions of a proposed administrative regulation.

(5) If a word has the same meaning as a phrase, the word shall be used.

(6) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed.

(7) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations.

(8) "If" or "except" shall be used rather than "provided that" or "provided, however."

(9) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things.

(10) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	*Use:*
And/or	*"and" for a conjunctive;* *"or" for a disjunctive*
Any and all	*either word*
As provided in this administrative regulation	—
At the time	*when*
And the same hereby is	*is*
Either directly or indirectly	—
Except where otherwise provided	*state specific exemption*
Final and conclusive	*final*
Full force and effect	*force or effect*
In the event that; In case	*if*
Is authorized; Is empowered	*may*

Is defined and shall be construed to mean	*means*
Is hereby required to	*shall*
It shall be lawful	*may*
Latin words	*do not use unless medical or scientific terminology*
Null and void and of no effect	*void*
Order and direct	*either word*
Provision of law	*law*
Until such time as	*until*
Whenever	*if*

(11) Unless the authority for an administrative regulation is an appropriation act that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of a proposed administrative regulation shall be cited. If an act has not been codified at the time a proposed administrative regulation is promulgated, or if the authority is an appropriation act, the citation shall be as follows: "Acts (year), Chapter (chapter number), Section (section number)."

SECTION 3. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) An administrative body may incorporate by reference:

(a) Material that is copyrighted by the Commonwealth of Kentucky or one of its administrative bodies; and

(b) Material that is unduly cumbersome, bulky or expensive to publish.

(2) No material shall be incorporated by reference unless:

(a) The material incorporated by reference relates only to the specific subject matter governed by an administrative regulation;

(b) The material has been reviewed in detail by the administrative body;

(c) No statute, state or federal regulation prescribes the same or similar procedure, or sets forth a comprehensive scheme of regulation of the subject matter; and

(d) Its incorporation is necessary in order to:

1. Implement, interpret or prescribe law or policy authorized or required by statute;

2. Establish or describe the organization, procedure or practice requirements authorized or required by statute.

(3) An administrative regulation incorporating material by reference shall include:

(a) The effective date of the material incorporated by reference;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying at the main, regional or branch offices of the administrative body, and the address and office hours of each.

The information required by this subsection shall appear in the section of an administrative regulation that incorporates the material by reference.

(4) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(5) One (1) copy of the material incorporated by reference shall be filed with the regulation compiler when the administrative regulation is filed. Material incorporated by reference shall be placed in a binder. The administrative body shall stamp or type the number of a proposed administrative regulation to which material incorporated by reference pertains and the date on which it is filed on the front binder cover and on the first page of the material incorporated by reference.

(6) Federal statutes shall not be incorporated by reference. If applicable, they shall be cited in the "RELATES TO" and "STATUTORY AUTHORITY" references in a proposed administrative regulation.

(7) If a federal regulation is adopted without change by the administrative body:

(a) It shall not be incorporated by reference, but shall be cited as provided by subsection 6 of this section; and

(b) In a separate section, an administrative regulation shall include a statement that the subject matter of the administrative regulation is governed by that federal regulation.

(8) If a federal regulation is adopted with changes by the administrative body, it shall be incorporated by reference.

(a) A proposed administrative regulation that adopts a federal regulation with changes shall contain a separate section stating that the subject matter of the administrative regulation is governed by that federal regulation as changed by the administrative body.

(b) The administrative body shall file with the regulation compiler:

1. A copy of the federal regulation in which the changes have been made in the manner specified in Section 1 of this Act;

2. An entire new document in which the changes have been made but are not reflected in the manner specified in Section 1 of this Act; and

3. A summary listing the pages upon which changes have been made, and a detailed summary of the changes *and their effect. This summary shall be attached to the proposed administrative regulation.*

(9) When a proposed administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

(a) An entire new document in which the amendments have been made but are not reflected in the manner specified in Section 1 of this Act;

(b) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the proposed administrative regulation; and

(c) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in Section 1 of this Act.

(10) (a) An administrative regulation shall not incorporate all material relating to a general subject matter in one (1) proposed administrative regulation. An administrative body shall divide the subject matter into topics. Each such separate administrative regulation shall be limited to the specific topic to which the material relates. Material incorporated by reference shall be incorporated by reference in a proposed administrative regulation governing the specific topic to which the material relates.

(b) When an administrative regulation adopted prior to the effective date of this Act is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of this section.

Section 4. KRS 13A.040 is amended to read as follows:

The director of the legislative research commission shall appoint an administrative regulations compiler who shall:

(1) Receive administrative regulations tendered for filing;

(2) Stamp administrative regulations tendered for filing with the time and date of receipt;

(3) Provide administrative and support services to the subcommittee;

(4) Maintain a file of proposed administrative regulations, proposed amendment to existing administrative regulations, proposed repeal of existing administrative regulations, emergency administrative regulations, and regulatory impact analysis for public inspection, with suitable indexes;

(5) Maintain a file of ineffective administrative regulations;

(6) Prepare the Kentucky administrative regulations service;

(7) Make certifications required by this chapter; [~~and~~]

(8) *Refuse to accept for filing proposed administrative regulations that do not conform to the provisions of this Act, and shall notify the administrative body in writing of the reasons for refusing to accept a proposed administrative regulation for filing; and*

(9) Perform such other duties as required by the commission or by a subcommittee.

Section 5. KRS 13A.150 is amended to read as follows:

(1) When any section of this chapter requires that an action be taken at a specified date with regard to filing of items to the commission they shall be filed on or before 12:00 noon, eastern time, on the specified date.

(2) When any section of this chapter requires that an action be taken at a specified date and the specified

date falls on a Saturday, Sunday or holiday, the action shall be taken on the working day immediately preceding the Saturday, Sunday or holiday.

Section 6. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that due to the exigencies of the situation must be placed into effect immediately, and

(a) Is temporary in nature and will expire as provided herein; or

(b) Is temporary in nature and will be replaced by an ordinary administrative regulation as provided herein.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next administrative register.

(3) Emergency administrative regulations shall expire ninety (90) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) If it is intended that an emergency administrative regulation's subject matter remain in effect, [~~then~~] the ordinary administrative regulation covering that subject matter shall be filed on or before the effective date of the emergency administrative regulation. *When such an ordinary administrative regulation has been filed and is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.*

(7)[~~(6)~~] The subcommittee may review an emergency administrative regulation and may recommend to the governor that the regulation be revoked.

(8)[~~(7)~~] Each emergency administrative regulation shall contain a statement detailing the nature of the emergency, the reasons why an ordinary administrative regulation would not suffice, whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation, and if the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor.

(9) An administrative body shall attach the statement of emergency required by subsections (5) and (8) of this section to the front of the original and each copy of proposed emergency administrative regulation. A space no smaller than two (2) by three (3) inches in the upper right hand corner of the statement shall be left blank for the regulation compiler's stamp. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(10)[~~(8)~~] Each emergency administrative regulation shall be signed by the head of the administrative body and shall be countersigned by the governor.

Section 7. KRS 13A.220 is amended to read as follows:

All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall *comply with the provisions of this Act.*

(1) An administrative body shall file the original and five (5) copies of a proposed administrative regulation with the regulations compiler. The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(2) A proposed amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky administrative regulations service or the administrative register. It shall be a typed original in the format specified in subsection (3) of this section.

(3) The format of a proposed administrative regulation shall be as follows:

(a) A proposed administrative regulation shall be typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches and shall be double-spaced. Copies of the proposed administrative regulation may be mechanically reproduced.

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulation compiler's stamp indicating the date and time of receipt of the proposed administrative regulation.

(c) The cabinet, department and division of the administrative body shall be listed on separate single spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed by "(Proposed Amendment)" or "(Amended After Hearing)," whichever is applicable. If a proposed administrative regulation is new, no notation is necessary.

(d) The notation shall be followed by the number and title of the proposed administrative regulation. The line on which the number and title appear shall begin two (2) lines below the notation. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new proposed administrative regulation.

(e) Two (2) lines following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list any statutes and other enactments, including appropriation acts or executive orders, to which the proposed administrative regulation relates or which shall be affected by the proposed administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the proposed administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by Section 3 of this Act.

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY AND FUNCTION:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation and a summary of the functions intended to be implemented by the proposed administrative regulation.

(4) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g. (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). Sub-subparagraphs shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(5) After the complete text of a proposed administrative regulation, the administrative body shall include the following information:

(a) The authorizing signature of the administrative body promulgating the proposed administrative regulation, and the date on which the administrative body approved the promulgation.

(b) The signature of the attorney officially representing the administrative body, certifying that he has examined and approved the proposed administrative regulation as to form.

(c) Information relating to public hearings as required by Section 9 of this Act. [~~be filed with the administrative~~

~~regulations compiler as an original document with five (5) copies and shall contain:~~

~~(1) A citation of the authority pursuant to which it, or any part of it, was adopted;~~

~~(2) A brief statement which sets forth with particularity the necessity for promulgating, amending, or repealing the administrative regulation;~~

~~(3) A summary of the functions sought to be implemented by the proposed or revised administrative regulation or the repeal of an existing administrative regulation;~~

~~(4) The date, time and place of the public hearing required in KRS 13A.270;~~

~~(5) The signature of the person within the administrative body authorized by the body to sign administrative regulations;~~

~~(6) The signature of an attorney representing the administrative body who shall certify that the administrative regulation is in proper form and that the requirements of subsections (2) and (3) of this section have been met and are correct;~~

~~(7) The signature of the governor and such other documentation as required by KRS 13A.190 if the proposal is filed as an emergency administrative regulation.~~]

Section 8. KRS 13A.230 is amended to read as follows:

(1) The administrative body shall attach the following forms to the back of the original and each copy of a proposed administrative regulation:

(a) Regulatory impact analysis;

(b) If the administrative regulation was not tiered, a written statement as to why tiering was not used. The written statement shall be included in the space provided for this purpose on the regulatory impact analysis;

(c) Local mandate impact statement, if the administrative regulation relates to any aspect of local government or any service provided thereby;

(d) Federal mandate comparison, if applicable; and

(e) The summaries provided for in Section 3 of this Act, if applicable.

(2) The forms required by subsection (1) of this section shall be obtained from the regulations compiler. [~~All proposed administrative regulations, proposed amendments to administrative regulations, proposed repeals of administrative regulations, and emergency administrative regulations shall be filed with the administrative regulations compiler accompanied by an original and five (5) copies of:~~

~~(1) The regulatory impact analysis required by KRS 13A.240;~~

~~(2) The statement as to why tiering as required in KRS 13A.210 was not used, if it has not been used;~~

~~(3) The fiscal note required by KRS 13A.250;~~

~~(4) The federal mandate comparison required by KRS 13A.245.~~]

Section 9. KRS 13A.270 is amended to read as follows:

(1) Not less than twenty (20) nor more than thirty (30) days following publication in the administrative register of the text of a proposed administrative regulation, the administrative body shall, unless authorized to cancel the hearing pursuant to subsection (2) of this section, hold a hearing, open to the public, on the

proposed administrative regulation.

(2) *Each proposed administrative regulation shall state the place, time and date of the scheduled public hearing and the manner in which interested persons may submit their notification of attending the public hearing pursuant to the provisions of this section.*

(3) Persons desiring to be heard at the hearing shall notify the administrative body in writing as to their desire to appear and testify at the hearing not less than five (5) days before the scheduled date of the hearing.

(4) The administrative body shall immediately notify the regulations compiler by telephone and by letter if:

(a) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) days before the scheduled hearing, and it chooses to cancel the public hearing; or

(b) No written notice of intent to attend the public hearing is received by the administrative body at least five (5) days before the scheduled hearing; it has cancelled the public hearing; and it has received written or oral statements that shall be considered.

(5) Upon receipt from interested persons of their intent to attend a public hearing, the administrative body shall notify the regulations compiler by telephone and by letter that the public hearing shall be held. [~~If no requests to testify are received by the administrative body within five (5) days of the hearing, then the administrative body may cancel the hearing. If the hearing is cancelled, the administrative body shall forthwith notify the administrative regulations compiler who shall note the fact that the hearing was cancelled upon the face of the regulation.~~]

(6)[~~(3)~~] Every hearing shall be conducted in such a manner as to guarantee each person who wishes to offer comment a fair and reasonable opportunity to do so, whether or not such person has given the notice contemplated by subsection (2) of this section. No transcript need be taken of the hearing, unless a written request for a transcript is made, in which case the person requesting the transcript shall have the responsibility of paying for same. A recording may be made in lieu of a transcript under the same terms and conditions as a transcript. This section shall not preclude an administrative body from making a transcript or making a recording if it so desires.

(7)[~~(4)~~] Nothing in this section shall be construed as requiring a separate hearing on each proposed administrative regulation, proposed amendment to an administrative regulation or proposed repeal of an administrative regulation. *Administrative* regulations may be grouped at the convenience of the administrative body for purposes of hearings required by this section.

Section 10. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date the administrative body shall give consideration to all written and oral *comments* [~~statements~~] received, whether at the hearing or otherwise, regarding the proposed administrative regulation, proposed amendment to an administrative regulation or repeal of an administrative regulation.

(2) The administrative body shall then file with the commission by 12 noon, eastern time, on the fifteenth (15th) day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) If the proposed administrative regulation, proposed amendment of an administrative regulation, or repeal of an administrative regulation is amended as a result of the hearing or *written or oral* [~~other~~] comments received, *the administrative body shall forward the following to the regulations compiler by noon on the fifteenth day following the hearing:*

(a) The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise; and

(b) The original and five (5) copies of the statement of consideration as required by subsection (2) of this section.

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8 1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced.

(b) A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulation compiler's stamp indicating the date and time of receipt of the statement.

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered three (3) inches from the top of the first page. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable.

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body.

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments.

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment" and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body.

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing.

(h) If the promulgating administrative body amends the proposed administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement.

(5) If the proposed administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing. [~~a copy of the regulation as amended, a statement indicating what changes have been made in the original wording, and a statement summarizing the comments to the administrative body shall be submitted within the time limit specified in subsection (2) of this section.~~]

(6)[~~(4)~~] If the administrative regulation is amended pursuant to subsection (3) of this section the full text shall be published in the administrative register.

Section 11. KRS 13A.290 is amended to read as follows:

(1) Within forty-five (45) days of the receipt of the statement of consideration the subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the meeting shall be given in the administrative register.

(4) A representative of the administrative body promulgating the proposed administrative regulation, proposed amendment of the administrative regulation, proposed repeal of the administrative regulation, or emergency administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. *If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.*

(5) Following the meeting and before the next regularly scheduled meeting of the commission the subcommittee shall forward to the commission its findings, recommendations, or other comments as it deems appropriate in writing. One copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the administrative register.

Section 12. KRS 13A.320 is amended to read as follows:

(1) When a proposed administrative regulation or proposed amendment to an administrative regulation is amended with the consent of the administrative body during a public meeting of the subcommittee, nothing in this chapter shall be construed to require its resubmission or refiling or other action. The administrative regulation may be adopted as amended. Subsequent to its adoption it shall be published in the administrative register.

(2) When an administrative body intends to amend an administrative regulation at a meeting of the subcommittee the following requirements shall be met:

(a) Amendments shall be contained in a memorandum to the subcommittee, shall identify the administrative body, and shall state the number of the administrative regulation and the date. Amendments shall be filed with the regulations compiler as soon as possible before the meeting of the subcommittee.

(b) The number of the section and subsection to which the amendment applies shall precede the amendment and shall be underlined.

(c) If a word or phrase is to be deleted, the amendment shall identify the word or phrase to be deleted. If a word or phrase is to be replaced by another word or phrase, the amendment shall specify the word or phrase that is to be deleted and shall specify the word or phrase with which it is replaced. Example: Section 5, subsection (3): The word "qualify" before the phrase "of the internship program" is deleted. The word "quality" is inserted in lieu of the word "qualify."

Section 13. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation may request at a meeting of the subcommittee that consideration of the administrative regulation be deferred by the subcommittee.

(2) Upon receipt of the request the subcommittee shall defer consideration of the proposal.

(3) The deferring of a proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation shall have the same effect as

an action under KRS 13A.310.

(4) *Except as provided by this Act,* the subcommittee shall not have the authority to defer consideration of a matter on its own authority or upon the request of any party other than the administrative body which promulgated the proposed administrative regulation, proposed amendment to an existing administrative regulation, or proposed repeal of an administrative regulation.

(5) Except as provided in subsections (1) through (4) of this section neither the promulgating administrative body, the commission, nor the subcommittee shall defer any action which is required to be taken pursuant to this chapter.

HB 1021, AN ACT relating to regulation of elections and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

The attorney general may direct members of his staff or obtain assistance from the state police to observe voting activity at any voting precinct in the state on any election day for the purpose of enforcing the election laws of the state.

Section 2. KRS 117.237 is amended to read as follows:

A county board of elections may request that the Kentucky state police patrol voting precincts in the county during the hours the polls are open on the day of any primary or regular or special election for the purpose of maintaining order and enforcing the election laws of the state. *The staff of the office of the attorney general or the state police shall observe voting activity at specified voting precincts on election day when requested by the attorney general for the purpose of enforcing the election laws of the state as provided by Section 1 of this Act.*

Section 3. Whereas, the enforcement of the election laws on election day is necessary for the primary scheduled for May 27, 1988, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

HB 1022, AN ACT proposing an amendment to the Kentucky Constitution relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 30 of the Kentucky Constitution be amended to read as follows:

Members of the House of Representatives and Senators shall be elected at the general election in even-numbered years for terms of *six* [~~four~~] years for Senators and *four* [~~two~~] years for members of the House of Representatives. The term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election.

Section 2. It is proposed that Section 31 of the Kentucky Constitution be amended to read as follows:

At the general election to be held in November, *nineteen hundred and ninety* [~~1984~~], and *in even-numbered* [~~every two~~] years thereafter, there shall be elected for *six* [~~four~~] years one Senator in each Senatorial District in which the term of his predecessor in office will then expire and *for four years one Representative* in every Representative District *in which the term of his predecessor in office will then expire* [~~one Representative for two years~~].

Section 3. It is proposed that Section 71 of the Constitution of Kentucky be amended to read as follows:

He shall be ineligible for the succeeding four years after the expiration of the *second consecutive* term for which he shall have been elected.

Section 4. It is proposed that Section 82 of the Constitution of Kentucky be amended to read as follows:

A Lieutenant Governor shall be chosen at every regular election for Governor, in the same manner, to continue in office for the same time, and possess the same qualifications as the Governor. He shall be ineligible to the office of Lieutenant Governor for the succeeding four (4) years after the expiration of the *second consecutive* term for which he shall have been elected.

Section 5. It is proposed that Section 93 of the Constitution of Kentucky be amended to read as follows:

The Treasurer, Auditor of Public Accounts, Secretary of State, Commissioner of Agriculture, Labor and Statistics, Attorney General, Superintendent of Public Instruction and Register of the Land Office shall be ineligible to re-election for the succeeding four years after the expiration of the *second consecutive* term for which they shall have been elected. The duties and responsibilities of these officers shall be prescribed by law, and all fees collected by any of said officers shall be covered into the treasury. Inferior State officers, not specifically provided for in this Constitution, may be appointed or elected, in such manner as may be prescribed by law, for a term not exceeding four years, and until their successors are appointed or elected and qualified.

Section 6. It is proposed that Section 95 of the Constitution of Kentucky be amended to read as follows:

The election under this Constitution for Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, Attorney-General, Secretary of State, Superintendent of Public Instruction, and Commissioner of Agriculture, Labor and Statistics, shall be held on the first Tuesday after the first Monday in November, *nineteen* [~~eighteen~~] hundred and *ninety-eight* [~~ninety-five~~], and the same day every four years thereafter.

Section 7. It is proposed that Section 97 of the Constitution of Kentucky be amended to read as follows:

[~~At the general election in eighteen hundred and ninety-two there shall be elected in each circuit court district a Commonwealth's Attorney, and in each county a Clerk of the Circuit Court, who shall enter upon the discharge of the duties of their respective offices on the first Monday in January after their election, and shall hold their offices five years, and until their successors are elected and qualified.~~] In the year *nineteen* [~~eighteen~~] hundred and *ninety-four* [~~ninety-seven~~], and every six years thereafter, there shall be an election in each county for a Circuit Court Clerk, and for a Commonwealth's Attorney, in each circuit court district, unless that office be abolished, who shall hold their respective offices for six years from the first Monday in January after their election, and until the election and qualification of their successors.

Section 8. It is proposed that Section 99 of the Constitution of Kentucky be amended to read as follows:

At the general election in nineteen hundred and ninety and every four years thereafter, there shall be elected in each county a Judge of the County Court, a County Court Clerk, a County Attorney, Sheriff, Jailer, Coroner, Surveyor and Assessor, and in each Justice's District one Justice of the Peace and one Constable, who shall enter upon the discharge of the duties of their offices on the first Monday in January after their election, and who shall hold their offices four years until the election and qualification of their successors.

Section 9. It is proposed that Section 148 of the Constitution of Kentucky be amended to read as follows:

Not more than one election each year shall be held in this State or in any city, town, district, or county thereof, except as otherwise provided in this Constitution. All *regular* elections of State, county, city, town or district officers shall be held on the first Tuesday after the first Monday in November *in even-numbered years* [~~; but no officer of any city, town, or county, or of any subdivision thereof, except members of municipal legislative boards, shall be elected in the same year in which members of the House of Representatives of the United States are elected. District or State officers, including members of the General Assembly, may be elected in the same year in which members of the House of Representatives of the United States are elected~~]. All elections by the people shall be between the hours of six o'clock a.m. and seven o'clock p.m., but the General Assembly may change said hours, and all officers of any election shall be residents and voters in the precinct in which they act. The General Assembly shall provide by law that all employers shall allow employes, under reasonable regulations, at least four hours on election days, in which to cast their votes.

Section 10. It is proposed that Section 160 of the Constitution of Kentucky be amended to read as follows:

The Mayor or Chief Executive, Police Judges, members of legislative boards or councils of towns and cities shall be elected by the qualified voters thereof: Provided, The Mayor or Chief Executive and Police Judges of the towns of the fourth, fifth and sixth classes may be appointed or elected as provided by law. The terms of office of Mayors or Chief Executives and Police Judges shall be four years, and until their successors shall be qualified, and of members of legislative boards, *four* [~~two~~] years. When any city of the first or second class is divided into wards or districts, members of legislative boards shall be elected at large by the qualified voters of said city, but so selected that an equal proportion thereof shall reside in each of the said wards or districts; but when in any city of the first, second or third class, there are two legislative boards, the less numerous shall be selected from and elected by the voters at large of said city; but other officers of towns or cities shall be elected by the qualified voters therein, or appointed by the local authorities thereof, as the General Assembly may, by a general law, provide; but when elected by the voters of a town or city, their terms of office shall be four years, and until their successors shall be qualified. No Mayor or Chief Executive of any city of the first or second class, after the expiration of three successive terms of office to which he has been elected under this Constitution shall be eligible for the succeeding term. No fiscal officer of any city of the first or second class, after the expiration of the term of office to which he has been elected under this Constitution, shall be eligible for the succeeding term. "Fiscal officer" shall not include an Auditor or Assessor, or any other officer whose chief duty is not the collection or holding of public moneys. The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled.

Section 11. It is proposed that Section 209 of the Constitution of Kentucky be amended to read as follows:

A commission is hereby established, to be known as "The Railroad Commission," which shall be composed of three Commissioners. [~~During the session of the General Assembly which convenes in December, eighteen hundred and ninety-one, and before the first day of June, eighteen hundred and ninety-two, the Governor shall appoint, by and with the advice and consent of the Senate, said three Commissioners, one from each Superior Court District as now established, and said appointees shall take their office at the expiration of the terms of the present incumbents. The Commissioners so appointed shall continue in office during the term of the present Governor, and until their successors are elected and qualified.~~] At the regular election in *nineteen* [~~eighteen~~] hundred and *ninety-eight* [~~ninety-five~~] and every four years thereafter the Commissioners shall be elected, one in each Superior Court District, by the qualified voters thereof, at the same time and for the same term as the Governor. No person shall be eligible to said office unless he be, at the time of his election, at least thirty years of age, a citizen of Kentucky two years, and a resident of the district from which he is chosen one year, next preceding his election. Any vacancy in this office shall be filled as provided in section 152 of this Constitution. The General Assembly may from time to time change said districts so as to equalize the population thereof; and may, if deemed expedient, require that the Commissioners be all elected by the qualified voters of the State at large. And if so required, one Commissioner shall be from each District. No person in the service of any railroad or common carrier company or corporation, or of any firm or association conducting business as a common carrier, or in anywise pecuniarily interested in such company, corporation, firm or association, or in the railroad business, or as a common carrier, shall hold such office. The powers and duties of the Railroad Commissioners shall be regulated by law; and, until otherwise provided by law, the Commission so created shall have the same powers and jurisdiction, perform the same duties, be subject to the same regulations, and receive the same compensation, as now conferred, prescribed and allowed by law to the existing Railroad Commissioners. The General Assembly may, for cause, address any of said Commissioners out of office by similar proceedings as in the case of Judges of the Court of Appeals; and the General Assembly shall enact laws to prevent the nonfeasance and misfeasance in office of said Commissioners, and to impose proper penalties therefor.

Section 12. It is proposed that Section 256 of the Constitution of Kentucky be amended to read as follows:

Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election [~~for members of the House of Representatives~~], the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. Not more than four amendments shall be voted upon at any one time. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. The approval of the Governor shall not be necessary to any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

Section 13. It is proposed that the present Constitution of Kentucky be amended by repealing present Section 167 - Time of election of city officers and police judges; election years.

Section 14. It is further proposed as a part of this amendment and as a schedule of transitional provisions, for the purposes of this amendment, any other provision of the Kentucky Constitution notwithstanding:

(1) The term of office of governor; lieutenant governor; treasurer; auditor of public accounts; register of the land office; attorney general; secretary of state; superintendent of public instruction; commissioner of agriculture, labor and statistics; and railroad commissioners who were elected in 1987 shall not be eligible for immediate reelection the term of office of these officers who shall be elected in 1991 shall be for a single term of seven years and these officers shall not be eligible for immediate reelection.

(2) The term of office of state senators who were elected in 1986 and who are elected in 1988 shall be for a term of six years.

(3) The term of office of state representatives who are elected in 1988 shall be for a four-year term.

(4) The term of office of court of appeals judges and of circuit court judges who were elected in 1983 shall be for a nine-year term.

(5) The term of office of commonwealth's attorneys and circuit court clerks who were elected in 1987 shall be for a term of seven years.

(6) The term of office of judge of the county court, county court clerk, county attorney, sheriff, jailer, coroner, surveyor, assessor, justice of the peace, and constable, who were elected in 1985 shall be for a five-year term.

(7) The term of office of county commissioners who were elected in 1985 and in 1987 shall be for a five-year term.

(8) The term of office of mayors who were elected in 1987 shall be for a five-year term.

(9) The term of office of mayors who shall be elected in 1989 shall be for a five-year term.

(10) The term of office of municipal legislative body members who were elected in 1987 and who shall be elected in 1989 shall be for a five-year term.

(11) The term of office of any other elected official who is serving in office on the effective date of this amendment and whose term of office is scheduled to expire so that the office is scheduled to be on the ballot for reelection in an odd-numbered year shall have only that term of office extended for one year so that the election to be conducted for the office shall be conducted in an even-numbered year.

Section 15. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Substitute to **HB 1022** is as follows:

HB 1022, AN ACT proposing an amendment to the Kentucky Constitution relating to elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 30 of the Kentucky Constitution be amended to read as follows:

Members of the House of Representatives and Senators shall be elected at the general election in even-numbered years for terms of *six* [~~four~~] years for Senators and *four* [~~two~~] years for members of the House of Representatives. The term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election.

Section 2. It is proposed that Section 31 of the Kentucky Constitution be amended to read as follows:

At the general election to be held in November, *nineteen hundred and eighty-eight* [~~1984~~], and *in even-numbered* [~~every two~~] years thereafter, there shall be elected for *six* [~~four~~] years one Senator in each Senatorial District in which the term of his predecessor in office will then expire and *for four years one Representative* in every Representative District *in which the term of his predecessor in office will then expire* [~~one Representative for two years~~].

Section 3. It is proposed that Section 95 of the Constitution of Kentucky be amended to read as follows:

The election under this Constitution for Governor, Lieutenant Governor, Treasurer, Auditor of Public Accounts, Register of the Land Office, Attorney-General, Secretary of State, Superintendent of Public Instruction, and Commissioner of Agriculture, Labor and Statistics, shall be held on the first Tuesday after the first Monday in November, *nineteen* [~~eighteen~~] hundred and *ninety-two* [~~ninety-five~~], and the same day every four years thereafter.

Section 4. It is proposed that Section 97 of the Constitution of Kentucky be amended to read as follows:

[~~At the general election in eighteen hundred and ninety-two there shall be elected in each circuit court district a Commonwealth's Attorney, and in each county a Clerk of the Circuit Court, who shall enter upon the discharge of the duties of their respective offices on the first Monday in January after their election, and shall hold their offices five years, and until their successors are elected and qualified.~~] In the year *nineteen* [~~eighteen~~] hundred and *ninety-four* [~~ninety-seven~~], and every six years thereafter, there shall be an election in each county for a Circuit Court Clerk, and for a Commonwealth's Attorney, in each circuit court district, unless that office be abolished, who shall hold their respective offices for six years from the first Monday in January after their election, and until the election and qualification of their successors.

Section 5. It is proposed that Section 99 of the Constitution of Kentucky be amended to read as follows:

At the general election in nineteen hundred and ninety-four and every four years thereafter, there shall be elected in each county a Judge of the County Court, a County Court Clerk, a County Attorney, Sheriff, Jailer, Coroner, Surveyor and Assessor, and in each Justice's District one Justice of the Peace and one Constable, who shall enter upon the discharge of the duties of their offices on the first Monday in January after their election, and who shall hold their offices four years until the election and qualification of their successors.

Section 6. It is proposed that Section 148 of the Constitution of Kentucky be amended to read as follows:

Not more than one election each year shall be held in this State or in any city, town, district, or county thereof, except as otherwise provided in this Constitution. All *regular* elections of State, county, city, town or district officers shall be held on the first Tuesday after the first Monday in November *1990 and in even-numbered years thereafter* [~~; but no officer of any city, town, or county, or of any subdivision thereof, except members of municipal legislative boards, shall be elected in the same year in which members of the House of Representatives of the United States are elected. District or State officers, including members of the General Assembly, may be elected in the same year in which members of the House of Representatives of the United States are elected~~]. All elections by the people shall be between the hours of six o'clock a.m. and seven o'clock p.m., but the General Assembly may change said hours, and all officers of any election shall be residents and voters in the precinct in which they act. The General Assembly shall provide by law that all employers shall allow employes, under reasonable regulations, at least four hours on election days, in which to cast their votes.

Section 7. It is proposed that Section 160 of the Constitution of Kentucky be amended to read as follows:

The Mayor or Chief Executive, Police Judges, members of legislative boards or councils of towns and cities shall be elected by the qualified voters thereof: Provided, The Mayor or Chief Executive and Police Judges of the towns of the fourth, fifth and sixth classes may be appointed or elected as provided by law. The terms of office of Mayors or Chief Executives and Police Judges shall be four years, and until their successors shall be qualified, and of members of legislative boards, *four* [~~two~~] years. When any city of the first or second class is divided into wards or districts, members of legislative boards shall be elected at large by the qualified voters of said city, but so selected that an equal proportion thereof shall reside in each of the said wards or districts; but when in any city of the first, second or third class, there are two legislative boards, the less numerous shall be selected from and elected by the voters at large of said city; but other officers of towns or cities shall be elected by the qualified voters therein, or appointed by the local authorities thereof, as the General Assembly may, by a general law, provide; but when elected by the voters of a town or city, their terms of office shall be four years, and until their successors shall be qualified. No Mayor or Chief Executive of any city of the first or second class, after the expiration of three successive terms of office to which he has been elected under this Constitution shall be eligible for the succeeding term. No fiscal officer of any city of the first or second class, after the expiration of the term of office to which he has been elected under this Constitution, shall be eligible for the succeeding term. "Fiscal officer" shall not include an Auditor or Assessor, or any other officer whose chief duty is not the collection or holding of public moneys. The General Assembly shall prescribe the qualifications of all officers of towns and cities, the manner in and causes for which they may be removed from office, and how vacancies in such offices may be filled.

Section 8. It is proposed that Section 209 of the Constitution of Kentucky be amended to read as follows:

A commission is hereby established, to be known as "The Railroad Commission," which shall be composed of three Commissioners. [~~During the session of the General Assembly which convenes in December, eighteen hundred and ninety-one, and before the first day of June, eighteen hundred and ninety-two, the Governor shall appoint, by and with the advice and consent of the Senate, said three Commissioners, one from each Superior Court District as now established, and said appointees shall take their office at the expiration of the terms of the present incumbents. The Commissioners so appointed shall continue in office during the term of the present Governor, and until their successors are elected and qualified.~~] At the regular election in *nineteen* [~~eighteen~~] hundred and *ninety-eight* [~~ninety-five~~] and every four years thereafter the Commissioners shall be elected, one in each Superior Court District, by the qualified voters thereof, at the same time and for the same term as the Governor. No person shall be eligible to said office unless he be, at the time of his election, at least thirty years of age, a citizen of Kentucky two years, and a resident of the district from which he is chosen one year, next preceding his election. Any vacancy in this office shall be filled as provided in section 152 of this Constitution. The General Assembly may from time to time change said districts so as to equalize the population thereof; and may, if deemed expedient, require that the Commissioners be all elected by the qualified voters of the State at large. And if so required, one Commissioner shall be from each District. No person in the service of any railroad or common carrier company or corporation, or of any firm or association conducting business as a common carrier, or in anywise pecuniarily interested in such company, corporation, firm or association, or in the railroad business, or as a common carrier, shall hold such office. The powers and duties of the Railroad Commissioners shall be regulated by law; and, until otherwise provided by law, the Commission so created shall have the same powers and jurisdiction, perform the same duties, be subject to the same regulations, and receive the same compensation, as now conferred, prescribed and allowed by law to the existing Railroad Commissioners. The General Assembly may, for cause, address any of said Commissioners out of office by similar proceedings as in the case of Judges of the Court of Appeals; and the General Assembly shall enact laws to prevent the nonfeasance and misfeasance in office of said Commissioners, and to impose proper penalties therefor.

Section 9. It is proposed that Section 256 of the Constitution of Kentucky be amended to read as follows:

Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election [~~for members of the House of Representatives~~], the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. Not more than four amendments shall be voted upon at any one time. If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. The approval of the Governor shall not be necessary to any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.

Section 10. It is proposed that the present Constitution of Kentucky be amended by repealing present Section 167 - Time of election of city officers and police judges; election years.

Section 11. It is further proposed as a part of this amendment and as a schedule of transitional provisions, for the purposes of this amendment, any other provision of the Kentucky Constitution notwithstanding:

(1) The term of office of governor; lieutenant governor; treasurer; auditor of public accounts; register of the land office; attorney general; secretary of state; superintendent of public instruction; commissioner of agriculture, labor and statistics; and railroad commissioners who were elected in 1987 shall serve a term of five years.

(2) The term of office of state senators who were elected in 1986 and who are elected in 1988 shall be for a term of six years.

(3) The term of office of state representatives who are elected in 1988 shall be for a four-year term.

(4) The term of office of court of appeals judges and of circuit court judges who were elected in 1983 shall be for a nine-year term.

(5) The term of office of commonwealth's attorneys and circuit court clerks who were elected in 1987 shall be for a term of seven years.

(6) The term of office of judge of the county court, county court clerk, county attorney, sheriff, jailer, coroner, surveyor, assessor, justice of the peace, and constable, who will be elected in 1989 shall be for a five-year term.

(7) The term of office of county commissioners who were elected in 1985 and in 1987 shall be for a five-year term.

(8) The term of office of mayors who were elected in 1987 shall be for a five-year term.

(9) The term of office of mayors who shall be elected in 1989 shall be for a five-year term.

(10) The term of office of municipal legislative body members who were elected in 1987 and who shall be elected in 1989 shall be for a five-year term.

(11) The term of office of any other elected official who is serving in office on the effective date of this amendment and whose term of office is scheduled to expire so that the office is scheduled to be on the ballot for reelection in an odd-numbered year shall have only that term of office extended for one year so that the election to be conducted for the office shall be conducted in an even-numbered year.

Section 12. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HJR 115, A JOINT RESOLUTION directing the Legislative Research Commission to appoint a task force to study the office of the Auditor of Public Accounts.

WHEREAS, Sections 91 and 93 of the Constitution of the Commonwealth of Kentucky grants the General Assembly the authority to prescribe by law the duties and responsibilities of the Auditor of Public Accounts; and

WHEREAS, the public views the Auditor of Public Accounts as the watchdog over state and local government operations; and

WHEREAS, the public relies upon the General Assembly to prescribe by law the duties and responsibilities which will improve the effectiveness of the Auditor of Public Accounts as the government watch dog; and

WHEREAS, the office of the Auditor of Public Accounts should be studied in order to determine if the General Assembly can improve upon the effectiveness of this very important constitutional office;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Legislative Research Commission is directed to appoint a task force to study the office of the Auditor of Public Accounts. The task force shall be appointed no later than July 15, 1988. The task force shall be comprised of, but not limited to, three members of the Senate and three members of the House of Representatives, two Certified Public Accountants, one former governor, one former auditor, current auditor, one currently elected county clerk, one currently elected county judge/executive, one representative of the Administrative Office of the Courts, one representative of the Finance and Administration Cabinet and two citizens at large.

Section 2. All entities of state and local government which the Auditor of Public Accounts is currently authorized to audit shall cooperate with the task force and make available, upon request, such documents, data and records as are relevant, and provide full assistance and information to the task force.

Section 3. The task force may require information under oath of any person concerning any matter which is under study by the task force, and shall have the power to subpoena witnesses and records for such purposes, and otherwise compel the giving of evidence on any matters under study by the task force.

Section 4. The Legislative Research Commission may appoint a director of the task force if such is deemed necessary. The task force shall have the power to hire a staff and to issue personal service contracts as it deems necessary.

Section 5. The task force shall study all statutes and administrative regulations applicable to the office of the Auditor of Public Accounts, its organizational structure, its relationship and responsibility if any to all entitles of federal, state and local governments, and compare Auditor's offices from other states. The task force may study any other matters that relate to the office of the Auditor of Public Accounts.

Section 6. The task force may work with other legislative committees, task forces, and special committees. The task force shall consider and, as necessary, develop legislative proposals and recommendations. The task force shall report its findings and recommendations to the Legislative Research Commission on or before December 1, 1989.

Section 7. Legislative Research Commission staff services to be utilized in the conduct of this study are estimated to cost $75,000, and shall be provided from the regular Commission budget, subject to the limitations and other research responsibilities of the Commission, and the Auditor of Public Accounts shall be authorized to reimburse the Commission for any portion of these costs as may be subsequently agreed to by the Auditor and the Commission.

The Committee on Transportation reported **HB 605** with Committee Amendments attached thereto, **HB 706** with Committee Amendment attached thereto, **HB 707** with Committee Substitute attached thereto, **HCR 128**, **SB 48**, and **SB 118** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 605, AN ACT relating to motor vehicle registration.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.010 is amended to read as follows:

(1) "Cabinet" as used in KRS 186.400 to 186.640 means the transportation cabinet; except as specifically designated, "cabinet" as used in KRS 186.020 to 186.270 means the transportation cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet" as used in KRS 186.020 to 186.270 means the department of vehicle regulation when used with respect to commercial vehicles.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.

(4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. Motor vehicle shall not include a moped as defined in this section.

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(6) "Operator" means any person in actual control of a motor vehicle upon a highway.

(7) "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

(9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, side car attachments, *pick-up trucks and passenger vans which are not being used on a for-hire basis* and motor vehicles registered under KRS 186.060.

(12) "Resident" means any person who has taken up a place of abode within this state; or any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date on which his motor vehicle is registered or required to be registered in Kentucky;

or any person maintaining a place of abode in this state for gainful employment; provided, however, that the transportation cabinet may promulgate regulations exempting any person temporarily maintaining a place of abode in Kentucky, including full-time student at Kentucky colleges and universities, from any requirement imposed by this chapter upon residents as defined in this chapter. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima facie evidence that the operator is a resident of Kentucky.

Section 2. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, *and pick-up trucks and passenger vans which are not being used on a for-hire basis* shall be eleven dollars and fifty cents ($11.50).

(2) The annual registration fee for each motorcycle shall be five dollars ($5.00), and for each sidecar attachment, three dollars ($3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50).

The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the

certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

The Committee Amendment No. 1 to **HB 605** is as follows:

Amend printed copy of **HB 605** on page 14, after line 8, by inserting the following:

"Section 2. KRS 186.170 is amended to read as follows:

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the cabinet through the county clerk constantly in his possession, and shall display the registration plate

conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of the registration receipt of every motor vehicle, except motorcycles, licensed under KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. No rim, frame or other covering around the plate shall in any way obscure or cover any lettering or decal on the plate*; except that, any owner who objects to the display of a trademark of a private corporation which appears on the registration plate shall be entitled to receive a set of decals from the county clerk in his county of residence to cover the trademark of the private corporation. The owner may apply for the decal by presenting his certificate of registration either at the time of registration renewal or later. The county clerk shall charge a one dollar ($1) clerk's fee for issuing the decal set if it is applied for a time other than at registration renewal*. If the cabinet has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The cabinet shall have placed on said insignia either figures, letters, writing, marks or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the cabinet make identity of the registrant readily ascertainable.

(2) The registration year for commercial vehicles, trailers, semitrailers, mobile homes, and recreational vehicles shall be from April 1 to March 31. The registration year for vehicles registered under the provisions of KRS 186.050(2) shall be January 1 to December 31."

The Committee Amendment No. 2 to **HB 605** is as follows:

Amend printed copy of **HB 605** on page 4, line 10, after the word "*used*" by deleting the words "*on a for-hire basis*" and inserting the words "*for commercial or business purposes*" in lieu thereof.

The Committee Amendment No. 3 to **HB 605** is as follows:

Amend printed copy of **HB 605** on page 14, after line 8, insert the following language: "Section 2. Section 1 of this Act shall be effective on January 1, 1989."

HB 706, AN ACT relating to outdoor advertising.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.830 is amended to read as follows:

As used in KRS 177.830 to 177.890, unless the context requires otherwise:

(1) "Limited-access highway" means a road or highway or bridge constructed pursuant to the provisions of KRS 177.220 through 177.310;

(2) "Interstate highway" means any highway, road, street, access facility, bridge or overpass which is designated as a portion of the national system of interstate and defense highways as may be established by law, or as may be so designated by the department of transportation in the joint construction of the system by the department of transportation and the United States department of transportation, bureau of public roads;

(3) "Federal-aid primary highway" means any highway, road, street, appurtenant facility, bridge or overpass which is designated as a portion of the federal-aid primary highway system as may be established by law or as may be so designated by the department of transportation and the United States department of transportation;

(4) "Turnpike" means any road or highway or appurtenant facility constructed pursuant to the provisions of KRS 177.390 through 177.570, or pursuant to the provisions of any other definition of "turnpike" in the Kentucky Revised Statutes, or any other highway, road, parkway, bridge or street upon which a toll or fee is charged for the use of motor vehicular traffic;

(5) "Advertising device" means any billboard, sign, notice, poster, display or other device intended to attract the attention of operators of motor vehicles on the highways, and shall include a structure erected or used in connection with the display of any device and all lighting or other attachments used in connection therewith. However, it does not include directional or other official signs or signals erected by the state or other public agency having jurisdiction;

(6) "Highway or highways" as used in KRS 177.830 to 177.890 means limited access highway, interstate highway, federal-aid primary highway, or turnpike as defined in KRS 177.830 to 177.890;

(7) "Commercial or industrial zone" adjacent to a federal-aid primary highway means an area zoned to permit business, commerce or trade pursuant to lawful ordinance or regulation;

(8) "Unzoned commercial or industrial area" adjacent to *an interstate or* [~~a~~] federal-aid primary highway means an area which is not zoned by state or local law, regulation or ordinance and on which either a commercial or industrial activity is conducted or a permanent structure therefor is located together with the area extending along the highway for such distances as may be determined by regulation promulgated by the secretary of transportation. Each side of the highway will be considered separately in applying this definition — all measurements shall be from the outer edges of the regularly used buildings, parking lots, storage or processing areas of the activities, not from the property lines of the activities, and shall be along or parallel the edge of the pavement of the highway;

(9) "Commercial or industrial activities" for purposes of unzoned industrial and commercial areas means those activities generally recognized as commercial or industrial by zoning authorities in this state, except that none of the following activities shall be considered commercial or industrial:

(a) Outdoor advertising structures;

(b) Agricultural, forestry, ranching, grazing, farming, and related activities, including, but not limited to, wayside fresh produce stands;

(c) Activities normally or regularly in operation less than three (3) months of the year;

(d) Transient or temporary activities;

(e) Activities not visible from the main traveled way;

(f) Activities more than three hundred (300) feet from the nearest edge of the right of way;

(g) Activities conducted in a building principally used as a residence;

(h) Railroad tracks and minor sidings.

(10) "Urban areas" means those areas which the secretary of transportation, in the exercise of his sound discretion and upon consideration being given to the population within boundaries of an area and to the traveling public, determines by official order to be urban; provided, however, that any such determination or designation of the secretary shall not, in any way, be at variance with the federal law or regulation thereunder of jeopardize the allotment or qualification for federal-aid funds of the Commonwealth of Kentucky.

Section 2. KRS 177.841 is amended to read as follows:

(1) Except as otherwise provided in KRS 177.830 to 177.890, the erection or maintenance of any advertising device upon or within six hundred sixty (660) feet of the right of way of any interstate highway or federal-aid primary highway is prohibited.

(2) The erection or maintenance of any advertising device located outside of an urban area and beyond six hundred sixty (660) feet of the right of way which is legible [~~and/~~] or identifiable from the main traveled way of any interstate highway or federal-aid primary highway is prohibited with the exception of:

(a) Directional and official signs and notices;

(b) Signs advertising the sale or lease of property upon which they are located; or

(c) Signs advertising activities conducted on the property on which they are located.

Section 3. KRS 177.860 is amended to read as follows:

The commissioner of highways shall prescribe by regulations reasonable standards for the advertising devices hereinafter enumerated, designed to protect the safety of and to guide the users of the highways and otherwise to achieve the objectives set forth in KRS 177.850, and the erection and maintenance of any of the following advertising devices, if they comply with such regulations, shall not be deemed a violation of KRS 177.830 to 177.890:

(1) An advertising device which is to be erected or maintained on property for the purpose of setting forth or indicating:

(a) The name and address of the owner, lessee or occupant of such property; or

(b) The name or type of business or profession conducted on such property; or

(c) Information required or authorized by law to be posted or displayed thereon.

(2) An advertising device which is not visible from any traveled portion of the highway;

(3) An advertising device indicating the sale or leasing of the property upon which it is placed;

(4) Advertising devices which otherwise comply with the applicable zoning ordinances and regulations of any county or city, and which are to be located in a commercially or industrially developed area, in which the commissioner of highways determines, in exercise of his sound discretion, that the location of such advertising devices is compatible with the safety and convenience of the traveling public;

(5) Advertising devices within highway rights-of-way to provide directional information for business establishments offering goods and services in the interest of the traveling public.

(6) Advertising devices located within six hundred sixty (660) feet of the right of way of an interstate highway and inside official urban area or city limit boundary lines in zoned or unzoned commercial or industrial areas.

(7) Advertising devices located outside urban area or city limit boundary lines within six hundred sixty (660) feet of the right of way of an interstate highway are prohibited with the exception of devices located in areas which were zoned commercial or industrial as of September 21, 1959.

Section 4. KRS 177.865 is amended to read as follows:

[~~(1)~~] The commissioner of highways shall prescribe by regulation a state signing policy on installation of advertising services defined in KRS 177.860(5). This policy shall restrict the use of said signs to limited access highways of four (4) lanes or more, conform to the federal highway administration's standards for specific information signs and shall, as a minimum, include criteria for:

(1)[~~(a)~~] Distances to eligible services;

(2)[~~(b)~~] Selection of eligible businesses;

(3)[~~(c)~~] Use of business signs and legends conforming to federal highway administration size provisions at intersections on expressways;

(4)[~~(d)~~] Removing or covering business signs during off seasons for businesses operated on a seasonal

basis;

(5)[~~(e)~~] Defining the circumstances in which specific information signs may be used outside rural areas; and

(6)[~~(f)~~] Determining the costs to businesses for initial installation, annual maintenance, and removal of business signs.

[~~(2) Adoption of this section and KRS 177.860 shall in no way preclude or prevent the erection of highway advertising on exempted right of way as provided in Public Law 85-381.~~]

The Committee Amendment No. 1 to **HB 706** is as follows:

Amend printed copy of **HB 706** on page 5, line 10, after the word "regulations" insert the following language: "*a method to process permit applications, collect appropriate fees, establish requirements relating to areas and spacing pursuant to KRS 177.865(2) and adopt*"

On page 7, line 3, by removing the brackets from around "(1)" and deleting the strike throughs.

On page 7, line 11, by deleting the "*(1)*" and removing the brackets from around "(a)" and deleting the strike throughs.

On page 7, line 12, by deleting the "*(2)*" and removing the brackets from around "(b)" and deleting the strike throughs.

On page 7, line 13, by deleting the "*(3)*" and removing the brackets from around "(c)" and deleting the strike throughs.

On page 7, line 16, by deleting the "*(4)*" and removing the brackets from around "(d)" and deleting the strike throughs.

On page 7, line 19, by deleting the "*(5)*" and removing the brackets from around "(e)" and deleting the strike throughs.

On page 7, line 22, by deleting the "*(6)*" and removing the brackets from around "(f)" and deleting the strike throughs.

On page 7, line 25, by deleting the opening bracket from in front of "(2)" and placing an opening bracket in front of the word "adoption" and removing the appropriate strike throughs.

On page 7, line 25, after "(2)" insert the following language: "*The transportation cabinet shall promulgate administrative regulations which shall allow for the erection and spacing of advertising devices on exempted cotton areas as provided in Public Law 85-381, except that such advertising shall be limited to tourism activities within areas owned or operated by state, federal, or local government or other site specific businesses and other recreational activities established to promote tourism within the Commonwealth as defined by the cabinet.*"

On page 8, after line 2, insert the following language:

"SECTION 5. A NEW SECTION OF KRS CHAPTER 177 IS CREATED TO READ AS FOLLOWS:

(1) No person shall engage in the business of outdoor advertising in this state without first obtaining a license therefor from the cabinet. Such license shall be renewed annually. The fee for such license, and for each annual renewal shall be three hundred dollars ($300).

(2) A person may not apply for a permit unless he has first obtained the written permission of the owner or other person in lawful possession or control of the site designated as the location of the sign in the application for the permit.

(3)(a) An application for a sign permit shall be made on a form prescribed by the cabinet, and a separate application shall be submitted for each permit requested. A permit shall be required for each sign structure. All signs shall be permitted regardless of when erected.

(b) As part of the application, the applicant or his authorized representative shall certify in a notarized signed statement that all information provided in the application is true and correct and that, pursuant to subsection (2) of this section, he has obtained the written permission of the owner or other person in lawful possession of the site designated as the location of the sign in the permit application. Every permit application shall be accompanied by the appropriate permit fee; a signed statement by the owner or other person in lawful control of the site on which the sign is located or will be erected, authorizing the placement of the sign on that site; and, where local governmental regulation of signs exists, a statement from the appropriate local governmental official indicating that the local government will issue a permit to that applicant upon approval of the state permit application by the cabinet.

(c) The annual permit fee for each sign facing shall be thirty dollars ($30). A fee may not be prorated for a period less than the remainder of the permit year to accommodate short-term publicity features; however, a first-year fee may be prorated by payment of an amount equal to one-fourth of the annual fee for each remaining whole quarter or partial quarter of the permit year which ends on January 15. Applications received after September 30 must include fees for the last quarter of the current year and fees for the succeeding year.

(4) An application for a permit shall be acted on by the cabinet within thirty (30) days after receipt of the application by the cabinet.

(5)(a) For each permit issued, the cabinet shall furnish to the applicant a serially numbered permanent metal permit tag. The permittee shall be responsible for maintaining a valid permit tag on each permitted sign facing at all times. The tag shall be securely attached to the sign facing or, if there is no facing, on the pole nearest the highway; and it shall be attached in such a manner as to be plainly visible from the main-traveled way. The permit shall be void unless the permit tag is properly and permanently displayed at the permitted site within thirty (30) days after the date of permit issuance. If the permittee fails to erect a completed sign on the permitted site within two hundred seventy (270) days after the date on which the permit was issued, the permit shall be void, and the cabinet may not issue a new permit to that permittee for the same location for two hundred seventy (270) days after the date on which the permit became void.

(b) If a permit tag is lost, stolen, or destroyed, the permittee to whom the tag was issued shall apply to the cabinet for a replacement tag. Upon receipt of the application accompanied by a service fee of three dollars ($3) the cabinet shall issue a replacement permit tag.

(6) A permit is valid only for the location specified in the permit. Valid permits may be transferred from one (1) sign owner to another upon written acknowledgment from the current permittee and submittal of a transfer fee of five dollars ($5) for each permit to be transferred. However, the maximum transfer fee for any multiple transfer between two (2) outdoor advertisers in a single transaction shall be one hundred dollars ($100).

(7) A permittee shall at all times maintain the permission of the owner or other person in lawful control of the sign site to have and maintain a sign at such site.

(8)(a) All licenses and permits expire annually on January 15, and all license and permit renewal fees are required to be submitted to the cabinet by no later than January 15. On or before November 1 of each year, the cabinet shall send to each permittee a notice of fees due for all permits which were issued to him prior to September 30. Such notice shall list the permits and the permit fees due for each sign facing. The permittee shall, no later than January 1, of each year, advise the cabinet of any additions, deletions, or errors contained in the notice. Permit tags which are not renewed shall be returned to the cabinet for cancellation by January 15. Permit tags which are not renewed or returned to the cabinet shall be accounted for by the permittee in writing, which writing shall be submitted with the renewal fee payment.

(b) If a permittee has not submitted his fee payment by January 15, the cabinet shall, no later than February 1, send notice of violation to the permittee, requiring the payment of the permit fee within thirty (30) days after the date of the notice and payment of a delinquency fee equal to ten percent (10%) of the original amount due or, in the alternative to these payments, requiring the filing of a request for an administrative hearing to show cause why his sign should not be subject to immediate removal due to expiration of his license or permit. If the permittee submits payment as required by the violation notice, his license or permit shall be automatically reinstated and such reinstatement shall be retroactive to January 15. If the permittee does not respond to the

notice of violation within the thirty (30) day period, the cabinet shall remove the sign without further notice and without incurring any liability as a result of such removal.

(9) *The cabinet shall retain ten percent (10%) of all money received by the cabinet pursuant to this Act for use in administration of these provisions. The balance of these receipts shall be forwarded to the tourism cabinet and used solely for the development of tourism within the Commonwealth."*

HB 707, AN ACT relating to motor vehicle dealers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) Any licensed motor vehicle dealer who donates or loans a motor vehicle for use in a civic event may utilize a civic event registration plate on the motor vehicle. The civic event license plate shall be furnished by the automobile dealer. The form and content of the plate shall be approved by the commissioner of the department of vehicle regulation.

(2) Application for approval of the use of a civic event license plate shall be made to the department of vehicle regulation at least sixty (60) days prior to the event. The licensed motor vehicle dealer in his application shall provide the name of the event for which the motor vehicles will be used, date and duration of the event, and illustration or other facsimile of the registration plate requested for approval and an estimate of the number of vehicles to be loaned or donated. The commissioner shall approve or deny the use of said license plate within the thirty (30) days after receiving application and inform the dealer as to his decision.

(3) Ten (10) days prior to the beginning of any civic event for which use of civic event license plate has been approved the motor vehicle dealer shall provide to the department the vehicle identification number for each vehicle which will receive a civic event registration plate. The department of vehicle regulation shall provide forms to any dealers approved to use such plates. A form shall be required for each vehicle being registered. The cost of each form shall be two dollars ($2).

(4) Any motor vehicle bearing a civic event license plate authorized by subsection (1) of this section shall be restricted to use in providing services for events for which approval is granted. The services may include, but not be limited to, parades, transportation of visitors or dignitaries to and from event activities, use by event personnel or event volunteers and any other activity for which a vehicle may be required in the furtherance of the civic event.

(5) The use of the civic event license plate shall be limited to fifteen (15) days. When the civic event license plate expires, the dealer shall remove the plate and the vehicle shall be registered in a manner required by KRS Chapter 186. A misuse of civic event license plates shall be deemed a violation of KRS 186.020.

The Committee Substitute to **HB 707** is as follows:

HB 707, AN ACT relating to motor vehicle dealers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 190 IS CREATED TO READ AS FOLLOWS:

(1) A vehicle which has been donated or loaned by a licensed motor vehicle dealer for use in a civic event may be operated during preparation for and during the civic event with a civic event license plate.

(2) Application for approval of the use of a civic event license plate shall be made to the department of vehicle regulation on forms prescribed and furnished by the department at least sixty (60) days prior to the event. The licensed motor vehicle dealer in his application shall provide the name of the event for which the motor vehicles will be used, date and duration of the event, the number of vehicles to be loaned or donated and other information required by the department of vehicle regulation. The application shall be accompanied by five dollars ($5) for each civic event license plate applied for. The commissioner of the department of vehicle regulation shall approve or deny the use of the license plate within thirty (30) days after receiving the application

and inform the dealer as to his decision.

(3) At least ten (10) days prior to the date approved for the use of civic event license plate, the motor vehicle dealer shall provide to the department the vehicle identification number for each vehicle which is anticipated to be lent or donated to the civic event.

(4) Any motor vehicle bearing a civic event license plate authorized by subsection (1) of this section shall be restricted to use in providing services for events for which approval is granted. The services may include, but not be limited to, parades, transportation of visitors or dignitaries to and from event activities, use by event personnel or event volunteers and any other activity for which a vehicle may be required in the furtherance of the civic event.

(5) The use of the civic event license plate shall be limited to the time set forth in the approved application. A copy of the approved application shall be carried in the vehicle at all times. When the civic event license plate expires, the dealer shall remove the plate and return it to the department of vehicle regulation. The vehicle shall then be registered in a manner required by KRS Chapter 186. A misuse of civic event license plates shall be deemed a violation of the motor vehicle dealers license.

(6) The department of vehicle regulation may promulgate administrative regulations to implement this Act.

HCR 128, A CONCURRENT RESOLUTION requesting and petitioning the Legislative Research Commission to study the "Motor Vehicle Lemon" law dispute resolution system to determine whether modifications should be made to better protect the consumer.

WHEREAS, the "new car lemon" law as enacted by the 1986 General Assembly allows manufacturers of motor vehicles to establish their own arbitration systems, requiring only that fifty-one percent (51%) of the members on the arbitration panel have no involvement in the manufacture, distribution, or sale of the motor vehicles in question, thereby inherently casting doubt on the credibility and impartiality of the arbitration process; and

WHEREAS, the complaining consumer is never introduced to the individual arbitrators, usually being ushered into a meeting room, informed only of the general composition of the board, allowed to state his case, and thereafter being expected to respond to questions from persons whose names occupations about which he knows nothing; and

WHEREAS, the location of meetings of the arbitration panel in many circumstances is extremely inconvenient for the complaining consumer; and

WHEREAS, according to the "new car lemon" law there is no requirement that the arbitration panel render a definite finding that the motor vehicle in question is a "lemon," no definition or guideline for what "comparable value" is, no provisions for mileage allowance when complaining consumers choose to trade for a "comparable" motor vehicle, and no provisions for paying a price difference if there have been model year changes resulting in higher new car prices; and

WHEREAS, the possibility exists that when a third party arbitration system is utilized by a complaining consumer, such system may not comply with Kentucky law, thereby creating enforcement problems; and

WHEREAS, according to a consumer protection consumer survey, seventy-six percent (76%) of those persons who used the dispute resolution system in 1986 were not satisfied with the final decisions and fifty-three percent (53%) of those persons certified that they would not use the dispute resolution system again;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Legislative Research Commission be and it is directed to conduct a study of the "Motor Vehicle Lemon" law dispute resolution system to determine whether modifications should be made to better protect the consumer.

Section 2. This report shall be submitted to the Legislative Research Commission no later than September 1, 1989.

Section 3. Staff services to be utilized in completing this study are estimated to cost $20,000.00.

SB 48. AN ACT relating to motor vehicle license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.174 is amended to read as follows:

(1) Any owner of a motor vehicle required to be registered under the provisions of KRS 186.050(1) or (3)(a), except taxicabs, airport limousines and U-Drive-Its, *or any owner of a motorcycle required to be registered under the provisions of KRS 186.050(2)* may, in addition to registration under KRS 186.050(1) or (3)(a), obtain a personalized license plate. A personalized plate shall not be issued unless an application accompanied by a fee of twenty-five dollars ($25.00) is received by the transportation cabinet on or before September 1 preceding the year in which the plate or renewal thereof is to be issued. Any payments required to be made under this section shall be in the form of a certified check, cashier's check or a money order. The application and the twenty-five dollar ($25) fee is to be forwarded immediately to the transportation cabinet. Personalized plates issued under this section expire December 31 each year.

(2) No personalized plate shall be issued which would conflict with or duplicate the alphabetical-numerical system used for regular license plates or any other license plates issued in this Commonwealth, and it shall contain a combination of not more than six (6) letters of the alphabet and arabic numerals, including spaces. No personalized plate shall be issued if, in the discretion of the cabinet, it carries such letter or number combinations which might carry connotations offensive to good taste and decency. The owner must make a new application and pay a new fee each year he desires to obtain a personalized plate. Once an owner obtains a personalized plate, he will have first priority on that plate for each of the following years that he makes timely and proper application.

(3) *When registering a vehicle required to be registered under KRS 186.050(1) or (3)(a),* the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motor vehicle. The county clerk of the county of residence shall issue said personalized license plate and receive thirteen dollars fifty cents ($13.50), of which two dollars ($2) shall constitute the clerk's fee and eleven dollars fifty cents ($11.50) shall constitute the cabinet's fee.

(4) *When registering a motorcyle, the cabinet shall send the personalized plate to the county clerk in the county in which the applicant would be required to register his motorcycle. The clerk shall issue said personalized plate and receive five dollars ($5.00) and three dollars ($3.00) for each sidecar attachment.*

(5) (a) Upon the sale or transfer of such motor vehicle bearing such personalized plate, the owner shall remove same and return it and the certificate of title and registration to the county clerk. The clerk shall issue a regular license plate and certificate of title and registration. This vehicle can then be transferred as provided by KRS Chapter 186.

(b) When said personalized plate has been presented to the clerk, he shall reissue same free of charge by the transportation cabinet and upon payment of a one dollar ($1) clerk's fee, for use on any other vehicle of the same classification and category owned by the same person purchasing the personalized plate for the current license period. The license plate and decal on this other vehicle shall be turned in to the county clerk, who will forward the license plate to Frankfort.

(6)[~~(5)~~] In the event a personalized plate deteriorates, if he has not transferred a vehicle during the current license period, the owner may obtain a regular plate free.

(7)[~~(6)~~] The secretary of the transportation cabinet may make such rules and regulations as he deems necessary to further the purposes of this section.

SB 118. AN ACT relating to motor vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Department" means the department of highways.

(2) "Crosswalk" means:

(a) That part of a roadway at an intersection within the connections of the lateral lines of the sidewalks on opposite sides of the highway measured from the curbs or in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(3) "Highway" means any public road, street, avenue, alley or boulevard, bridge, viaduct or trestle and the approaches to them and includes off-street parking facilities offered for public use, whether publicly or privately owned, except for-hire parking facilities listed in KRS 189.700.

(4) "Intersection" means:

(a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two (2) highways which join one another, but do not necessarily continue, at approximately right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come into conflict; or

(b) Where a highway includes two (2) roadways thirty (30) feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two (2) roadways thirty (30) feet or more apart, then every crossing of two (2) roadways of such highways shall be regarded as a separate intersection. The junction of a private alley with a public street or highway shall not constitute an intersection.

(5) "Motor truck" means any motor-propelled vehicle designed for carrying freight or merchandise. It shall not include self-propelled vehicles designed primarily for passenger transportation, but equipped with frames, racks or bodies having a load capacity of not exceeding one thousand (1000) pounds.

(6) "Operator" means the person in actual physical control of a vehicle.

(7) "Pedestrian" means any person afoot.

(8) "Right of way" means the right of one (1) vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

(9) "Roadway" means that portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two (2) or more separate roadways the term "roadway" as used herein shall refer to any roadway separately but not to all such roadways collectively.

(10) "Safety zone" means the area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

(11) "Semitrailer" means a vehicle designed to be attached to, and having its front end supported by, a motor truck or truck tractor, intended for the carrying of freight or merchandise and having a load capacity

of over one thousand (1000) pounds.

(12) "Truck tractor" means any motor-propelled vehicle designed to draw and to support the front end of a semitrailer. The semitrailer and the truck tractor shall be considered to be one (1) unit.

(13) "Sharp curve" means a curve of not less than thirty (30) degrees.

(14) "State police" includes any agency for the enforcement of the highway laws established pursuant to law.

(15) "Steep grade" means a grade exceeding seven per cent (7%).

(16) "Trailer" means any vehicle designed to be drawn by a motor truck or truck-tractor, but supported wholly upon its own wheels, intended for the carriage of freight or merchandise, and having a load capacity of over one thousand (1,000) pounds.

(17) "Unobstructed highway" means a straight, level, first-class road upon which no other vehicle is passing or attempting to pass, and upon which no other vehicle or pedestrian is approaching in the opposite direction, closer than three hundred (300) yards.

(18) "Vehicle" includes all agencies for the transportation of persons or property over or upon the public highways of this commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality. "Motor vehicle" includes all vehicles as defined above which are propelled otherwise than by muscular power.

(19) "Reflectance" means the ratio of the amount of total light, expressed in a percentage, which is reflected outward by the product or material to the amount of total light falling on the product or material.

(20) "Sunscreening material" means a product or material, including film, glazing, and perforated sunscreening, which, when applied to the windshield or windows of a motor vehicle, reduces the effects of the sun with respect to light reflectance or transmittance.

(21) "Transmittance" means the ratio of the amount of total light, expressed in a percentage, which is allowed to pass through the product or material, including glazing, to the amount of total light falling on the product or material and the glazing.

(22) "Window" means any device designed for exterior viewing from a motor vehicle, except the windshield, any roof-mounted viewing device, and any viewing device having less than one hundred fifty (150) square inches in area.

Section 2. KRS 189.110 is amended to read as follows:

(1) *A windshield in a fixed and upright position, which is equipped with safety glazing as required by federal safety-glazing material standards, is required on every motor vehicle which is operated on the public highways, roads, and streets, except on a motorcycle or implement of husbandry.*

(2) A person shall not operate any motor vehicle on any public highway, road, or street with any sign, sunscreening material, product, or covering attached to, or located in or upon the windshield, except the following:

(a) A certificate or other paper required to be displayed by law;

(b) Sunscreening material along a strip at the top of the windshield, so long as such material is transparent and does not encroach upon the driver's direct forward viewing area as more particularly described and defined in Federal Motor Vehicle Safety Standards Nos. 205 and 128 as the AS/1 portion of the windshield.

(3) A person shall not operate any motor vehicle required to be registered in the Commonwealth, on any public highway, road, or street on which vehicle the side wings and side windows on either side forward of or adjacent to the operator's seat are composed of, covered by, or treated with any sunscreening material or other product or covering which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as expressly permitted by this section. A sunscreening material may be applied to such windows if, when tested on one-eighth (1/8) inch clear glass, the material has a total solar reflectance of visible light of not more than twenty-five percent (25%) as measured on the nonfilm side and a light transmittance of at least thirty-five percent (35%) in the visible light range.

(4) A person shall not operate any motor vehicle required to be registered in the Commonwealth, on any public highway, road, or street on which vehicle any windows behind the driver are composed of, covered by, or treated with any sunscreening material, or other product or material which has the effect of making the window nontransparent or which would alter the window's color, increase its reflectivity, or reduce its light transmittance, except as specified below:

(a) Sunscreen material consisting of film which, when tested on one-eighth (1/8) inch clear glass, has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eighteen percent (18%) in the visible light range; however, sunscreen material which, when tested on one-eighth (1/8) inch clear glass, has a total solar reflectance of visible light of not more than thirty-five percent (35%) as measured on the nonfilm side and a light transmittance of at least eight percent (8%) in the visible light range may be used on multipurpose passenger vehicles;

(b) Perforated sunscreening material which, when tested in conjunction with existing glazing or film material, has a total reflectance of visible light of not more than thirty-five percent (35%) and a light transmittance of no less than thirty percent (30%). For those products or materials having different levels of reflectance, the highest reflectance from the product or material will be measured by dividing the area into sixteen (16) equal sections and averaging the overall reflectance. The measured reflectance of any of those sections may not exceed fifty percent (50%).

(5) A person shall not operate any motor vehicle required to be registered in the Commonwealth, upon any public highway, road, or street, on which vehicle the rear window is composed of, covered by, or treated with any material which has the effect of making the window nontransparent, unless the vehicle is equipped with side mirrors on both sides.

(6) Each installer or seller of sunscreening material shall provide a pressure-sensitive, self-destructive, nonremovable, vinyl-type film label to the purchaser stating that the material complies with the provisions of KRS 189.010(19) to (22) and subsections (1) to (5) of this section. Each such installer shall affix the required label to the inside left door jamb of the motor vehicle. In addition, the label shall state the trade name of the material and the installer's or seller's business name. Labeling is not required for factory glazing which complies with Federal Motor Vehicle Safety Standard No. 205.

(7) Every percentage measurement required by subsections (3) and (4) of this section is subject to a tolerance of plus or minus three percent (3%).

(8) No person shall install window tinting materials on any vehicle after July 15, 1988, which fails to meet the minimum standards for light transmission pursuant to subsections (3) and (4) of this section. Any tinted material installed prior to the effective date of this Act which fails to meet the minimum standards for light transmission pursuant to subsections (3) and (4) of this section shall be removed within six (6) months after the effective date of this section. No police officer shall issue a uniform traffic citation during the first six (6) month period, but owners of vehicles in violation shall be issued a warning citation during said six (6) months.

(9) Any person who applies sunscreening materials in violation of this section shall be guilty upon conviction of a class B misdemeanor [~~No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, sidewings, side or rear windows of the vehicle, other than a paper required to be so displayed by law~~].

(10)[~~(2)~~] Nothing in [~~subsection (1) of~~] this section shall prevent the display of a representation of the American flag on the rear window of any motor vehicle, including any vehicle owned by a local or state government, provided that such representation does not exceed a size of five (5) inches by eight (8) inches

and is placed in a lower corner of the rear window.

(11)[~~(3)~~] The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield. The device shall be so constructed as to be controlled by the operator of the vehicle.

The Committee Amendment No. 1 to **SB 118** is as follows:

Amend printed copy of **SB 118** on page 10, line 16, after the "." insert the following:

"*(12) Nothing in this section shall be construed to prevent the use of any window which is composed of, covered by, or treated with any material or component in a manner approved by federal statute or regulation if such window was as a component part of a vehicle at the time of the vehicle manufacturer, or the replacement of any such window by such covering which meets such requirements.*"

The Committee on Judiciary-Civil reported **HB 523** with Committee Amendments attached thereto, **HB 748**, **HB 754**, **HB 805**, **HB 984**, **SB 65**, **SB 104** with Committee Amendments attached thereto, **SB 142**, **SB 148**, **SB 150** and **SB 166** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 523. AN ACT relating to support of spouses and children.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 403.190 is amended to read as follows:

(1) In a proceeding for dissolution of the marriage or for legal separation, or in a proceeding for disposition of property following dissolution of the marriage by a court which lacked personal jurisdiction over the absent spouse or lacked jurisdiction to dispose of the property, the court shall assign each spouse's property to him. It also shall divide the marital property *equally* without regard to marital misconduct *unless, after* [~~in just proportions~~] considering all relevant factors including *the following, equity requires a different division*:

(a) Contribution of each spouse to acquisition of the marital property, including contribution of a spouse as homemaker;

(b) Value of the property set apart to each spouse;

(c) Duration of the marriage; and

(d) Economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home or the right to live therein for reasonable periods to the spouse having custody of any children.

(2) For the purpose of this chapter, "marital property" means all property acquired by either spouse subsequent to the marriage except:

(a) Property acquired by gift, bequest, devise, or descent;

(b) Property acquired in exchange for property acquired before the marriage or in exchange for property acquired by gift, bequest, devise, or descent;

(c) Property acquired by a spouse after a decree of legal separation;

(d) Property excluded by valid agreement of the parties; and

(e) The increase in value of property acquired before the marriage to the extent that such increase did not result from the efforts of the parties during marriage.

(3) All property acquired by either spouse after the marriage and before a decree of legal separation is presumed to be marital property, regardless of whether title is held individually or by the spouses in some form of co-ownership such as joint tenancy, tenancy in common, tenancy by the entirety, and community property. The presumption of marital property is overcome by a showing that the property was acquired by a method listed in subsection (2) of this section.

(4) If the retirement benefits of one (1) spouse are excepted from classification as marital property, or not considered as an economic circumstance during the division of marital property, then the retirement benefits of the other spouse shall also be excepted, or not considered, as the case may be. Retirement benefits, for the purposes of this subsection shall include retirement or disability allowances, accumulated contributions or any other benefit of a retirement system or plan regulated by the Employes Retirement Income Security Act of 1974, or of a public retirement system administered by an agency of a state or local government, including deferred compensation plans created pursuant to KRS 18A.230 to 18A.275 or defined contribution or money purchase plans qualified under section 401(a) of the Internal Revenue Code of 1954, as amended.

Section 2. KRS 403.200 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order *which shall be without regard to marital misconduct, except that dissipation of assets may be considered,* for either spouse only if it finds that the spouse seeking maintenance:

(a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, and the physical and emotional condition of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

Section 3. KRS 403.210 is amended to read as follows:

In a proceeding for dissolution of marriage, legal separation, maintenance, or child support, the court may order either or both parents owing a duty of support to a child of the marriage to pay an amount reasonable or necessary for his support, without regard to marital misconduct, after considering all relevant factors including:

(1) The financial resources of the child;

(2) The financial resources of the custodial parent;

(3) The standard of living the child would have enjoyed had the marriage not been dissolved;

(4) The physical and emotional condition of the child, and his educational needs; [~~and~~]

(5) The financial resources and needs of the noncustodial parent; *and*

(6) If a child is enrolled in school, college, vocational school or similar educational program, child support may, within the discretion of the circuit court, be continued until the child reaches the age of twenty-one (21), graduates or discontinues his education, whichever comes first.

SECTION 4. A NEW SECTION OF KRS CHAPTER 403 IS CREATED TO READ AS FOLLOWS:

In a proceeding for dissolution of marriage, legal separation or child support if the court has jurisdiction to determine custody pursuant to the Uniform Child Custody Jurisdiction Act, KRS 403.400 et seq., then for purposes of ordering child support, the court may exercise jurisdiction over either or both parents owing a duty of support to a child of the marriage; if the person is outside the state, service may be had pursuant to notice as set forth in KRS 403.440.

Section 5. KRS 403.220 is amended to read as follows:

The court from time to time after considering the financial resources of both parties may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding under this chapter and for attorney's fees, including sums for legal services rendered and costs incurred prior to the commencement of the proceeding or after entry of judgment*; except that in a proceeding to enforce payment of child support or visitation rights, the prevailing party may be awarded attorney fees, notwithstanding the financial circumstances of the respective parties*. The court may order that the amount be paid directly to the attorney, who may enforce the order in his name.

Section 6. KRS 403.320 is amended to read as follows:

(1) A parent not granted custody of the child is entitled to reasonable visitation rights unless the court finds, after a hearing, that visitation would endanger seriously the child's physical, mental, moral, or emotional health.

(2) The court may modify an order granting or denying visitation rights whenever modification would serve the best interests of the child; but the court shall not restrict a parent's visitation rights unless it finds that the visitation would endanger seriously the child's physical, mental, moral or emotional health.

(3) If the court finds that the custodial parent has flagrantly and persistently violated orders for visitation, the court may order child support paid into escrow in court until such time as there is compliance, but the sums shall be disbursed by the court as it deems equitable, no later than the child's eighteenth birthday.

Section 7. KRS 454.275 is amended to read as follows:

A court may exercise personal jurisdiction *to determine child support liability* over a person whose marital domicile *was* [~~is~~] in Kentucky, and *whose minor child or children reside in Kentucky, and* who[~~, for the purpose of avoiding support and maintenance of his minor children,~~] removes himself from the jurisdiction of the court. In such cases service may be had as provided in KRS 454.210 and 454.270.

The Committee Amendment No. 1 to **HB 523** is as follows:

Amend printed copy of **HB 523** on pages 3-4, delete Section 2 of the bill in its entirety and renumber remaining sections accordingly.

The Committee Amendment No. 2 to **HB 523** is as follows:

Amend printed copy of **HB 523** on page 5, line 17, after "*enrolled*" insert "*on a full time basis*"; and

On page 5, line 22, after "*first.*" insert the following:

"*If support is continued pursuant to this subsection and the child is over eighteen (18) years of age, the court may order that support payments from either the noncustodial parent, the custodial parent, or both be made directly to the child, the educational institution in which the child is enrolled, or any person or entity providing necessities to the child.*"; and

On page 7, delete lines 11 through 13 in their entirety and insert in lieu thereof the following:

"*a private trust created for that purpose. The trustee of a trust so created shall administer child support payments received in furtherance of the best interests of the child and shall be held to the same standard of care as a fiduciary. Expenses incurred in establishing and maintaining the trust, including reasonable fees of the trustee, shall be borne by the custodial parent.*"

The Committee Amendment No. 3 to **HB 523** is as follows:

Amend printed copy of **HB 523** on pages 1-3, delete Section 1 of the bill in its entirety and renumber remaining sections accordingly.

HB 748, AN ACT relating to notaries public.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 423.010 is amended to read as follows:

The secretary of state may appoint as many notaries public as he deems necessary, who shall hold office for four (4) years. Any person desiring to be appointed a notary public shall make written application to the secretary of state. The application shall be approved by the circuit judge, circuit clerk, county judge/executive, county clerk, justice of the peace or a member of the general assembly of the county *from which the application is made* [~~of the residence of the applicant~~]. No officer shall charge or accept any fee for approving the application. A notary public must be eighteen (18) years of age, a *person residing, employed, operating a business, or practicing an occupation in* [~~resident of~~] the county from which he makes his application, of good moral character and capable of discharging the duties imposed upon him by this chapter, and the endorsement of the officer approving the application shall so state. *For purposes of this section, the rendering of service as a notary public shall not be deemed as employment, operation of a business, or practice of an occupation.* The secretary of state, in his certificate of appointment to the applicant, must designate the limits within which the notary is to act. Before a notary acts, he must take an oath before the county judge/executive of his county that he will honestly and diligently discharge the duties of his office. He must in the same court give an obligation with good security for the proper discharge of the duties of his office. Every certificate of a notary public shall state the date of the expiration of his commission. The secretary of state shall give to each notary appointed a certificate of his appointment under the seal of the Commonwealth of Kentucky in lieu of a commission heretofore required to be issued to said notary by the governor of Kentucky, and receive a fee of ten dollars ($10) for the certificate.

HB 754, AN ACT relating to the department of law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.100 is amended to read as follows:

(1) The attorney general shall appoint a deputy attorney general, who shall *have the same qualifications required of a circuit court judge except for residence in a district and who shall receive the same salary as a circuit court judge* [~~qualify as required by law~~], to serve at the pleasure of the attorney general *and to perform the duties he may designate. The attorney general may appoint three (3) assistant deputy attorneys general, who shall have the same qualifications required of a district court judge except for residence in a district and who shall receive the same salary as a district court judge, to serve at the pleasure of the attorney general and to perform the duties he may designate.*

(2) In addition to the deputy attorney general, the attorney general shall appoint [~~, and~~] such assistants

and special attorneys as he deems necessary to transact the business of the department of law, and *to* perform *the*[~~such~~] duties[~~as~~] he may designate. The deputy attorney general, *assistant deputy attorneys general,* assistants, and special attorneys shall have full power, as authorized and under the direction of the attorney general, to perform such duties as may be performed by the attorney general. The attorney general shall be responsible for the official acts of his deputy, *assistant deputy attorneys general,* assistants, and special attorneys.

(3)[~~(2)~~] In addition to the appointment and designation of *a deputy, assistant deputy attorneys general,* assistants and special attorneys pursuant to *subsections* [~~subsection~~] (1) *and (2)* of this section, the attorney general may enter into such contracts for legal services as he deems necessary and advisable.

(4)[~~(3)~~] Each assistant or special attorney so appointed or designated shall be a person admitted to the practice of law by the Supreme Court of this Commonwealth and shall qualify by taking the oath of office.

HB 805. AN ACT relating to bankruptcy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 427.150 is amended to read as follows:

(1) An individual is entitled to exemption of the following property to the extent reasonably necessary for the support of him and his dependents in addition to property totally exempt under subsection (2) of this section:

(a) Money or property received and rights to receive money or property for alimony, support, or separate maintenance; and

(b) Assets held, payments made, and amounts payable under a stock bonus, pension, profit-sharing, *individual retirement account (IRA),* annuity, or similar plan or contract, providing benefits by reason of age, illness, disability, or length of service.

(2) An individual is entitled to exemption of the following property:

(a) An award under a crime victim's reparation law;

(b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(c) A payment, not to exceed seven thousand five hundred dollars ($7,500), on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(d) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor; or

(e) Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, 427.120 and 427.125.

HB 984. AN ACT relating to corporations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The repeal of KRS 273.363 contained in Section 248 of 1988 **HB 323** is hereby repealed.

SB 65. AN ACT relating to security interests and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.070 is amended to read as follows:

Except as otherwise provided, the state resident owner of a [~~motor~~] vehicle *as defined in KRS 186.010(8)(a), mobile home as defined in KRS 186.650,* or trailer which will not be operated upon the highways of this state must within fifteen (15) days apply for and obtain a certificate of title in his name. He shall not, however, be required to obtain a certificate of registration until such time as the [~~motor~~] vehicle, *mobile home or trailer* is to be operated upon the highways of this state.

Section 2. KRS 186A.190 is amended to read as follows:

(1) The perfection and discharge of a security interest in *any property for which has been issued a Kentucky certificate of title* [~~a motor vehicle, required to be registered or titled in accordance with this chapter,~~] shall be by notation on the certificate of title. The notation of the security interest on the certificate of title shall be in accordance with this chapter and remain effective until discharged under this chapter and KRS Chapter 186. The perfection of an assignment of a security interest which has been noted on the certificate of title shall be in accordance with the provisions of KRS 186.045(1).

(2) The notation of security interests relating to *property* [~~vehicles~~] required to be titled in Kentucky through the county clerk shall be done in the office of the county clerk of the county in which the debtor resides or, if the debtor is a nonresident, in the office of the county clerk in which the *property* [~~vehicle~~] is principally *situated or* operated. Notwithstanding the existence of any filed financing statement under the provisions of KRS Chapter 355 relating to any *property* [~~vehicle~~] registered or titled in Kentucky, the sole means of perfecting and discharging a security interest in *property* [~~a vehicle~~] for which a certificate of title is required by this chapter is by notation on such *property's* [~~vehicle's~~] certificate of title. In other respects the security interest is governed by the provisions of KRS Chapter 355.

(3) Before ownership of *property* [~~a vehicle~~] subject to a lien evidenced by notation on the certificate of title may be transferred, the transferor shall obtain the release of the prior liens in his name against the *property* [~~vehicle~~] being transferred. Once a security interest has been noted on the owner's title, no subsequent title may be issued by any county clerk free of such notation unless the owner's title is presented to the clerk and it has been noted thereon, that the security interest has been discharged. If this requirement is met, information relating to any security interest shown on the title as having been discharged may be omitted from the title to be issued by the clerk.

(4) No more than two (2) active security interests may be noted upon a certificate of title.

(5) In noting a security interest upon a certificate of title, the county clerk shall ensure that the certificate of title bears the lienholder's name, mailing address and zip code, the date the lien was noted, the notation number and the county in which the security interest was noted. The clerk shall obtain the information required by this subsection for notation upon the certificate of title from the *title* [~~motor vehicle~~] lien statement described in KRS 186A.195 to be provided to the county clerk by the secured party.

(6) In lieu of any and all fees prescribed by statute and for all the costs incurred in the notation and discharge of a security interest [~~on a motor vehicle~~] on the certificate of title, the county clerk shall receive ten dollars and fifty cents ($10.50) of which seven dollars and fifty cents ($7.50) shall be retained by the clerk and three dollars ($3.00) transmitted to the state treasurer. The fee prescribed by this subsection shall be paid at the time of submittal of the *title* [~~motor vehicle~~] lien statement described in KRS 186A.195.

(7) A copy of the application, certified by the county clerk, indicating the lien will be noted on the certificate of title shall be forwarded to the lienholder.

Section 3. KRS 186A.193 is amended to read as follows:

The *title* [~~motor vehicle~~] lien statement, provided for in KRS 186A.195, shall be developed by January 1, 1987 by the transportation cabinet, in cooperation with county clerks, financial institutions and auto dealers. The transportation cabinet shall ensure that the *title* [~~motor vehicle~~] lien statement is in a similar form and contains the same information as that provided for in KRS 355.9-402 and *where applicable* [~~in addition~~] include the year, make, motor number and identification number of *a* [~~the~~] motor vehicle.

Section 4. KRS 186A.195 is amended to read as follows:

(1) As used in this chapter a *title* [~~motor vehicle~~] lien statement is a document to be submitted by the secured party to the county clerk. Upon submission of the *title* [~~motor vehicle~~] lien statement the county clerk shall use the information contained therein to note the security interest on the certificate of title. The county clerk may make *title* [~~motor vehicle~~] lien statements available to the general public. However, public availability of such statements is not necessary or effective to perfect a security interest in *property* [~~motor vehicles~~] required to be registered or titled in accordance with this chapter.

(2) If a *title* [~~motor vehicle~~] lien statement and the required fees accompany the application for first title of *any property* [~~a vehicle~~] in the name of an owner, the county clerk shall enter the information required by KRS 186A.190(5) into the automated system so as to produce a certificate of title in Frankfort bearing in addition to any other required information, the information designated by KRS 186A.190(5). The clerk shall thereby produce, in accordance with design of the automated system, a certificate of registration, if required.

(3) If a *title* [~~motor vehicle~~] lien statement and the required fees are not received at the time of application for first title of *any property* [~~a vehicle~~] in the name of the owner due to owner's residency in another county or if the form prescribed by KRS 186A.060 indicates a pending lien but the *title* [~~motor vehicle~~] lien statement does not accompany the application for title, the county clerk shall enter into the automated vehicle informational system (AVIS) the name and address of the lienholder and the county where the lien is to be noted or that a lien is pending. The clerk shall indicate a title is not to be issued until the lien has been noted and fees, according to KRS 186A.190, paid in the county of the owner's residence or in thirty (30) days. The county clerk shall then issue the registration. The county clerk in the county of the owner's residence shall, after receiving the *title* [~~motor vehicle~~] lien statement and fees, contained in KRS 186A.190 enter into the automated vehicle information system (AVIS) the date of lien notation and the notation number, thus enabling the system to produce the title in Frankfort.

(4) Should a certificate of title be issued after the thirty (30) day period has expired without the notation of a security interest thereon or should there be no provision made for a lien to be noted in the county of residence of the debtor within thirty (30) days and the title issued within that time, the secured party shall request from the debtor, and the debtor shall submit to the secured party, the certificate of title. The secured party shall submit the certificate of title along with the *title* [~~motor vehicle~~] lien statement to the county clerk of the county of the debtor's residence. The county clerk shall then enter the information required by KRS 186A.190(5) into the automated vehicle information system (AVIS) and note on the certificate of title in the appropriate section the information described in that section. Following the notation of the appropriate information on the certificate of title, the county clerk shall return the title to the debtor.

(5) The security interest noted on the certificate of title shall be deemed perfected at the time the security interest attaches (KRS 355.9-203) if the secured party tenders the required fees and submits a properly completed *title* [~~motor vehicle~~] lien statement and application for first title or, in the case of *property* [~~a vehicle~~] previously titled in the name of its debtor, the certificate of title to the appropriate county clerk within ten (10) days of attachment. Otherwise the security interest shall be deemed perfected at the time that such fees are tendered and such documents are submitted to the appropriate county clerk.

SECTION 5. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

Any lien notated on a Kentucky certificate of title which evidences a security interest perfected after July 1, 1987, but before the effective date of this Act shall be valid whether the security interest was perfected by filing a motor vehicle lien statement under this chapter or by filing a financing statement under article 9 of KRS Chapter 355. Such security interests shall be considered perfected as of the date of tender of the motor vehicle lien statement or financing statement as the case may be. A security interest evidenced by a lien notated on a Kentucky certificate of title, which was perfected by filing a financing statement under article 9 KRS Chapter 355, remains perfected without the requirement of filing a continuation statement under KRS 355.9-403.

SECTION 6. A NEW SECTION OF KRS CHAPTER 186A IS CREATED TO READ AS FOLLOWS:

(1) If a Kentucky certificate of title is outstanding as of the effective date of this Act without the notation of a valid lien representing a security interest perfected under this chapter, the transportation cabinet upon application of either the secured party or the debtor shall cancel the current certificate of title and issue a new certificate of title with the lien notated thereon. The security interest represented by the lien shall be considered perfected as of the original date of filing of the title lien statement or financing statement.

(2) Notwithstanding the provisions of KRS 355.9-403, no continuation statement shall be filed under KRS 355.9-403 for security interests in property eligible to be titled through issuance of a Kentucky certificate of title, but for which no Kentucky certificate of title has been issued. The secured party or debtor shall apply for the issuance of a Kentucky certificate of title on such property, with the valid lien representing the security interest notated thereon, prior to or upon the date that the filing of a continuation statement would be required under KRS 355.9-403. The security interest then represented by the lien so notated shall be considered perfected as of the original date of filing the financing statement.

Section 7. KRS 355.9-401 is amended to read as follows:

(1) The proper place to file in order to perfect a security interest is as follows:

(a) When the collateral is equipment used in farming operations, or farm products, or accounts[~~,~~] or general intangibles arising from or relating to the sale of farm products by a farmer, or consumer goods, then in the office of the county clerk in the county of the debtor's residence or if the debtor is not a resident of this state then in the office of the county clerk in the county where the goods are kept, and in addition when the collateral is crops growing or to be grown in the office of the county clerk in the county where the land is located;

(b) When the collateral is timber to be cut or is minerals or the like (including oil and gas), *other than coal*, or accounts subject to subsection (5) of KRS 355.9-103, *other than accounts arising out of the sale of coal*, or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, then in the office where a mortgage on the real estate would be filed or recorded, *and where they shall be indexed separately from mortgage instruments*; and

(c) In all other cases, if the debtor is a resident of this state in the office of the county clerk in the county of the debtor's residence or, if the debtor is a nonresident of this state, then in the office of the secretary of state of the Commonwealth of Kentucky. The secretary of state may collect a fee of eight dollars ($8) for each filing in his office under this section.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this Article and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in KRS 355.9-103 determine whether filing is necessary in this state.

(5) For the purposes of this section:

(a) An individual debtor for whom filing is controlled by KRS 355.9-401(1)(c) shall be deemed a resident of the county in which the debtor's principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(b) A partnership shall be deemed a resident of the county in which its principal place of business in this state is located. If the debtor does not have a place of business in this state, then the debtor shall be deemed a nonresident for purposes of filing in this state;

(c) A limited partnership organized under KRS Chapter 362 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its certificate of limited partnership or most recent amendment thereto filed pursuant to KRS Chapter 362;

(d) A limited partnership not organized under the laws of this state and authorized to do business in this state under KRS Chapter 362 shall be deemed a resident of the county in which the office of its process agent is located, as set forth in the designation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky;

(e) A corporation organized under KRS Chapter 271A, 273 or 274 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the secretary of state which officially designates its current registered office;

(f) A corporation not organized under the laws of this state and authorized to transact or do business in this state under KRS Chapter 271A, 273 or 274 shall be deemed a resident of the county in which its registered office is located, as set forth in its most recent corporate filing with the secretary of state which officially designates its current registered office;

(g) A cooperative corporation or association organized under KRS Chapter 272 shall be deemed a resident of the county in which its principal business is transacted, as set forth in its articles of incorporation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky;

(h) A cooperative corporation organized under KRS Chapter 279 shall be deemed a resident of the county in which its principal office is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky;

(i) A business trust organized under KRS Chapter 386 shall be deemed a resident of the county in which its principal place of business is located, as evidenced by the recordation of its declaration of trust in that county pursuant to KRS Chapter 386;

(j) A credit union organized under KRS Chapter 290 shall be deemed a resident of the county in which its principal place of business is located, as set forth in its articles of incorporation or most recent amendment thereto filed with the secretary of state of the Commonwealth of Kentucky; and

(k) Any other organization (defined in KRS 355.1-201) shall be deemed a resident of the county in which its principal place of business in this state is located. If the organization does not have a place of business in this state, then it shall be deemed a nonresident for purposes of filing in this state.

Section 8. KRS 355.9-402 is amended to read as follows:

(1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned and must describe the production season. If the production season is not described, the financing statement shall be deemed to describe the crops produced in the production season which ends within twelve (12) months after the filing date of the financing statement. A financing statement shall not describe more than one (1) production season. When the financing statement covers timber to be cut or covers minerals or the like (including oil and gas), *other than coal,* or accounts subject to subsection (5) of KRS 355.9-103, *other than accounts arising out of the sale of coal,* or when the financing statement is filed as a fixture filing (KRS 355.9-313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subsection (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A carbon, photographic or other reproduction of a security agreement or a financing statement is sufficient as a financing statement if the security agreement so provides or if the original has been filed in this state or in any other state.

(2) A financing statement which otherwise complies with subsection (1) of this section is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state, or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state, or that the debtor's location was changed to this state under such circumstances; or

(b) Proceeds under KRS 355.9-306 if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral; or

(c) Collateral as to which the filing has lapsed; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subsection (7) of this section).

(3) A form substantially as follows is sufficient to comply with subsection (1) of this section:

Name of debtor (or assignor) ____________________

Address ____________________

Name of secured party (or assignee) ____________________

Address ____________________

(a) This financing statement covers the following types (or items) of property:

(Describe) ____________________

(b) (If collateral is crops) The above described crops are growing or are to be grown on:

(Describe Real Estate) ____________________

(c) (If applicable) The above goods are to become fixtures on (or) The above timber is standing on (or) The above minerals or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on:

(Describe Real Estate) ____________________

and this financing statement is to be filed in the same office as the real estate records. (If the debtor does not have an interest of record) The name of a record owner is ____________________.

(d) (If products of collateral are claimed)Products of the collateral are also covered.

Signature of Debtor (or Assignor) ____________________

Signature of Secured Party (or Assignee) ____________________

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party. An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this Article, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas), *other than coal,* or accounts subject to subsection (5) of KRS 355.9-103, *other than accounts arising out of the sale of coal,* or a financing statement filed as a fixture filing (KRS 355.9-313), must show that it covers this type of collateral, must recite that it is to be filed in the same office as the real estate records, and the financing statement must contain a description of the real estate. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if:

(a) The goods are described in the mortgage by item or type;

(b) The goods are or are to become fixtures related to the real estate described in the mortgage;

(c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and

(d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the debtor, whether or not it adds other trade names or the names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four (4) months after the debtor notifies the secured party in writing of the change, unless a new appropriate financing statement is filed before the expiration of that time. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

Section 9. KRS 355.9-403 is amended to read as follows:

(1) Presentation for filing of a financing statement and tender of the filing fee or acceptance of the statement by the filing officer constitutes filing under this Article.

(2) Except as provided in subsection (6) of this section a filed financing statement is effective for a period of five (5) years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of the five (5) year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of sixty (60) days or until expiration of the five (5) year period, whichever occurs later. Upon lapse the security interest becomes unperfected, unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party within six (6) months prior to the expiration of the five (5) year period specified in subsection (2) of this section. Any such continuation statement must be signed by the secured party, identify the original statement by file number and date filed and state that the original statement is still effective. A continuation statement signed by a person other than the secured party *of* [~~or~~] record must be accompanied by a separate written statement of assignment signed by the secured party of record and complying with subsection (2) of KRS 355.9-405, including payment of the required fee. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five (5) years after the last date to which the filing was effective whereupon it lapses in the same manner as provided in subsection (2) of this section unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. Unless a statute on disposition of public records provides otherwise, the filing officer may remove a lapsed statement from the files and destroy it immediately if he has retained a microfilm or other photographic record, or in other cases after one (1) year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other relating filings, or by other means, that if he physically destroys the financing statements of a period more than five (5) years past, those which have been continued by a continuation statement or which are still effective under subsection (6) of this section shall be retained.

(4) Except as provided in subsection (7) of this section a filing officer shall mark each statement with a file number and with the date and hour of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statements according to the name of the debtor and shall note in the index the file number and the address of the debtor given in the statement.

(5) The uniform fee for filing and indexing an original or a continuation statement shall be as provided for in KRS 64.012. This fee includes the fee for filing and indexing a termination statement and for sending

or delivering the terminated instrument and financing statement.

(6) A real estate mortgage which is effective as a fixture filing under subsection (6) of KRS 355.9-402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) When a financing statement covers timber to be cut or covers minerals or the like (including oil and gas), *other than coal,* or accounts subject to subsection (5) of KRS 355.9-103, *other than accounts arising out of the sale of coal,* or is filed as a fixture filing, the filing officer shall index it under the names of the debtor and any owner of record shown on the financing statement in the same fashion as if they were the mortgagors in a mortgage of the real estate described, and, to the extent that the law of this state provides for indexing of mortgages under the name of the mortgagee, under the name of the secured party as if he were the mortgagee thereunder, or where indexing is by description in the same fashion as if the financing statement were a mortgage of the real estate described.

Section 10. KRS 355.9-405 is amended to read as follows:

(1) A financing statement may disclose an assignment of a security interest in the collateral described in the financing statement by indication in the financing statement of the name and address of the assignee or by an assignment itself or a copy thereof on the face or back of the statement. On presentation to the filing officer of such a financing statement the filing officer shall mark the same as provided in KRS 355.9-403 (4). The uniform fee for filing and indexing a financing statement so indicating an assignment shall be as provided in KRS 64.012.

(2) A secured party may assign of record all or a part of his rights under a financing statement by the filing in the place where the original financing statement was filed of a separate written statement of assignment signed by the secured party of record and setting forth the name of the secured party of record and the debtor, the file number and the date of filing of the financing statement and the name and address of the assignee and containing a description of the collateral assigned. A copy of the assignment is sufficient as a separate statement if it complies with the preceding sentence. On presentation to the filing officer of such a separate statement, the filing officer shall mark such separate statement with the date and hour of filing. He shall note the assignment on the index of the financing statement, or in the case of a fixture filing, or a filing covering timber to be cut, or covering minerals or the like (including oil and gas), *other than coal,* or accounts subject to subsection (5) of KRS 355.9-103, *other than accounts arising out of the sale of coal,* he shall index the assignment under the name of the assignor as grantor and, to the extent that the law of this state provides for indexing the assignment of a mortgage under the name of the assignee, he shall index the assignment of the financing statement under the name of the assignee. The uniform fee for filing and indexing such a separate statement of assignment shall be as provided in KRS 64.012. Notwithstanding the provisions of this subsection, an assignment of record of a security interest in a fixture contained in a mortgage effective as a fixture filing (subsection (6) of KRS 355.9-402) may be made only by an assignment of the mortgage in the manner provided by the law of this state other than this chapter.

(3) After the disclosure or filing of an assignment under this section, the assignee is the secured party of record.

Section 11. Whereas, existing statutes are ambiguous concerning the method of perfecting security interests in certain property eligible for issuance of Kentucky certificates of title thereby encouraging multiple or incorrect filings of financing and lien statements, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

SB 104, AN ACT relating to marriage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 402 IS CREATED TO READ AS FOLLOWS:

A county judge/executive shall issue a special license to a nonresident minister or priest to solemnize one (1) marriage in that county, if the county judge/executive is satisfied that the minister or priest is in regular communion with his religious society.

The Committee Amendment No. 1 to **SB 104** is as follows:

Amend printed copy of GA copy of **SB 104** on page 1, after line 7, insert the following:

"Section 2. Whereas it is the finding of the general assembly that it would be beneficial to concerned parties for marriage solemnizations as contemplated by this Act to be performed as soon as they may be legally recognized, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor."

The Committee Title Amendment to **SB 104** is as follows:

Amend printed copy of GA copy of **SB 104** on page 1, amend the TITLE to read as follows:

"AN ACT relating to marriage, and declaring an emergency."

SB 142, AN ACT relating to service of process on the secretary of state.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 188.030 is amended to read as follows:

The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering *two (2)* [~~a~~] true *copies* [~~copy~~] to the secretary of state and shall also deliver with *each* [~~the~~] summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail *a* [~~the~~] copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

Section 2. KRS 304.3-230 is amended to read as follows:

(1) Upon issuance of a certificate of authority to do business in this state, the following shall be deemed to have appointed the secretary of state as its attorney to receive service of lawful process issued against it in this state:

(a) Foreign or alien insurers;

(b) Domestic reciprocal insurers;

(c) Domestic Lloyd's insurers;

(d) Qualified self-insurers.

(2) Such appointment shall be irrevocable, shall bind any successor in interest or to the assets or liabilities of the insurer, and shall remain in effect as long as there is in force in this state or elsewhere a contract that would give rise to a cause of action in this state, made by the insurer, or liabilities or duties arising therefrom.

(3) Service of lawful process against unauthorized insurers, except in contracts issued by insurers or underwriters to industrial insureds as defined in KRS 304.11-020, shall be made upon the secretary of state, as provided in KRS 304.11-040.

(4) Service of lawful process against authorized domestic insurers shall be had pursuant to KRS 271A.070.

(5) *If* [~~Whenever~~] the secretary of state is by law the lawful attorney for service of process, the clerk of the court in which action is brought shall issue a summons against the defendant named in the complaint and shall serve by certified mail, return receipt requested, *two (2)* [~~a~~] true *copies* [~~copy~~] of the summons with *two (2)* [~~an~~] attested *copies* [~~copy~~] of plaintiff's complaint to the secretary of state. The secretary of state shall immediately mail *a* [~~the~~] copy of the summons and complaint to the defendant; if an authorized insurer, to the person designated pursuant to subsection (7) of KRS 304.3-150, and if an unauthorized insurer to the last known principal place of business. The letter shall be posted by prepaid certified mail, return receipt requested and shall bear the return address of the secretary of state. The secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Kentucky Rules of Civil Procedure.

(6) The secretary of state shall keep a record of the date and hour of receipt of such lawful process, as well as the date it is forwarded to the defendant.

(7) For the purpose of this section, "lawful process" shall include only the summons which initiates and commences a cause of action, and such other initial notices, rules, or orders which would be required by the Kentucky Rules of Civil Procedure to be by personal service.

(8) The sheriff serving the summons upon the secretary of state shall pay to him at the time of service a fee in the amount set forth in KRS 454.210, which shall be taxed as costs in the action.

Section 3. KRS 454.210 is amended to read as follows:

(1) As used in this section, "person" includes an individual, his executor, administrator, or other personal representative, or a corporation, partnership, association, or any other legal or commercial entity, who is a nonresident of this Commonwealth.

(2) (a) A court may exercise personal jurisdiction over a person who acts directly or by an agent, as to a claim arising from the person's:

1. Transacting any business in this Commonwealth;

2. Contracting to supply services or goods in this Commonwealth;

3. Causing tortious injury by an act or omission in this Commonwealth;

4. Causing tortious injury in this Commonwealth by an act or omission outside this Commonwealth if he regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth, provided that the tortious injury occurring in this Commonwealth arises out of the doing or soliciting of business or a persistent course of conduct or derivation of substantial revenue within the Commonwealth;

5. Causing injury in this Commonwealth to any person by breach of warranty expressly or impliedly made in the sale of goods outside this Commonwealth when the seller knew such person would use, consume, or be affected by, the goods in this Commonwealth, if he also regularly does or solicits business, or engages in any other persistent course of conduct, or derives substantial revenue from goods used or consumed or services rendered in this Commonwealth;

6. Having an interest in, using, or possessing real property in this Commonwealth, providing the claim arises from the interest in, use of, or possession of the real property, provided, however, that such in personam jurisdiction shall not be imposed on a nonresident who did not himself voluntarily institute the relationship, and did not knowingly perform, or fail to perform, the act or acts upon which jurisdiction is predicated;

7. Contracting to insure any person, property, or risk located within this Commonwealth at the time of contracting.

8. Committing sexual intercourse in this state which intercourse causes the birth of a child when:

a. The father or mother or both are domiciled in this state;

b. There is a repeated pattern of intercourse between the father and mother in this state; or

c. Said intercourse is a tort or a crime in this state;

(b) When jurisdiction over a person is based solely upon this section, only a claim arising from acts enumerated in this section may be asserted against him.

(3) (a) When personal jurisdiction is authorized by this section, service of process may be made on such person, or any agent of such person, in any county in this Commonwealth, where he may be found, or on the secretary of state who, for this purpose, shall be deemed to be the statutory agent of such person;

(b) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint. The clerk shall execute the summons by sending by certified mail *two (2)* [~~a~~] true *copies* [~~copy~~] to the secretary of state and shall also mail with the summons *two (2)* [~~an~~] attested *copies* [~~copy~~] of plaintiff's complaint. The secretary of state shall, within seven (7) days of receipt thereof in his office, mail *a* [~~the~~] copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by certified mail, return receipt requested, and shall bear the return address of the secretary of state. The clerk shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure; and

(c) The clerk mailing the summons to the secretary of state shall mail to him, at the same time, a fee of ten dollars ($10), which shall be taxed as costs in the action.

(4) When the exercise of personal jurisdiction is authorized by this section, any action or suit may be brought in the county wherein the plaintiff resides or where the cause of action or any part thereof arose.

(5) A court of this Commonwealth may exercise jurisdiction on any other basis authorized in the Kentucky Revised Statutes or by the Rules of Civil Procedure, notwithstanding this section.

Section 4. KRS 454.270 is amended to read as follows:

(1) Any nonresident operator or owner of any watercraft who accepts the privilege extended by the laws of this state to nonresidents to operate watercraft or have them operated within state shall, by such acceptance and by the operation of such watercraft within this state, make the secretary of state the agent of himself or his personal representative for the service of process in any civil action instituted in the courts of this state against the operator or owner, or the personal representative of the operator or owner, arising out of or by reason of any accident or collision or damage occurring within this state in which the watercraft is involved.

(2) The clerk of the court in which the action is brought shall issue a summons against the defendant named in the complaint and direct it to the sheriff of Franklin County. The sheriff shall execute the summons by delivering *two (2)* [~~a~~] true *copies* [~~copy~~] to the secretary of state and shall also deliver with *each* [~~the~~] summons an attested copy of plaintiff's complaint. The secretary of state shall immediately mail *a* [~~the~~] copy of the summons and complaint to the defendant at the address given in the complaint. The letter shall be posted by prepaid certified mail, return receipt requested, and shall bear the return address of the secretary of state. The sheriff shall make the usual return to the court, and in addition the secretary of state shall make a return to the court showing that the acts contemplated by this statute have been performed, and shall attach to his return the registry receipt, if any. Summons shall be deemed to be served on the return of the secretary of state and the action shall proceed as provided in the Rules of Civil Procedure.

(3) The sheriff serving the summons upon the secretary of state shall pay to him, at the time of service, a fee of ten dollars ($10), which shall be taxed as costs in the action. The secretary shall keep a record of each summons, including the day and hour of service upon him.

(4) The court in which the action is pending may order such continuances as may be necessary to afford

the defendant reasonable opportunity to appear and defend the action.

(5) This chapter extends the right of service of process upon nonresidents, and does not limit any other provisions for the service of process.

(6) The provisions of this chapter shall apply to any operator or owner of any watercraft who is a resident of this state at the time any accident or collision or damage occurs and who thereafter becomes a nonresident.

SB 148, AN ACT relating to name of professional service corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 274.077 is amended to read as follows:

The name of a domestic professional service corporation or of a foreign professional service corporation authorized to transact business in this state:

(1) Shall contain the words "professional service corporation" or the abbreviation "P.S.C.";

(2) Shall not contain any word or phrase which indicates or implies that it is organized for any purpose other than the purposes contained in its articles of incorporation;

(3) Shall *be distinguishable upon the records of the secretary of state from* [~~not be the same as, or deceptively similar to,~~] the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in KRS Chapter 271A, or the name of a corporation which has in effect a registration of its corporate name as provided in KRS Chapter 271A, *or the fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable, or a name filed with the secretary of state under KRS 362.095, 362.420, or 365.015,* except that this provision shall not apply if:

(a) Such similarity results from the use in the corporate name of personal names of its shareholders or former shareholders or of natural persons who were associated with a predecessor entity; [~~or~~]

(b) The *other corporation or partnership consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying corporation; or*

(c) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state [~~applicant files with the secretary of state either of the following: the written consent of such other corporation or holder of a reserved or registered name to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name; or a certified copy of a final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state~~]; and

(4) Shall otherwise conform to any rule promulgated by a licensing authority having jurisdiction of a professional service described in the articles of incorporation of such corporation.

SB 150, AN ACT relating to limited partnerships.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 362.095 is amended to read as follows:

(1) A foreign limited partnership may be authorized to do business in this state when, and only when, it has:

(a) Filed a certified copy of its articles of partnership or a certified copy of its certificate of limited partnership and all existing amendments in the office of the secretary of state, which may omit signature pages other than those signed by a general partner. It shall thereafter file a certified copy of subsequent amendments to its articles or certificate in the office of the secretary of state, provided that no amendment indicating merely a change in limited partners need be filed. A limited partnership shall pay to the secretary of state an original filing fee of forty dollars ($40) and a recording fee of twenty dollars ($20) for recording the articles or certificate of partnership and accompanying amendments, and shall pay the same recording fee for recording subsequent amendments; and

(b) Designating a process agent, which shall have the same legal effect and be subject to the same requirements as a process agent for a foreign corporation under KRS 271A.555.

(2) *Except as authorized by subsection (3) of this section, a partnership name shall be distinguishable upon the records of the secretary of state from:*

(a) The corporate name of a corporation incorporated or authorized to transact business in this state;

(b) A corporate name reserved or registered under KRS Chapter 271A;

(c) The fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable;

(d) The corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state; and

(e) A name filed with the secretary of state under KRS 362.095, 362.420 or 365.015. [~~The name of a foreign limited partnership shall not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name of the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its name as provided in this chapter, or any assumed name filed with the secretary of state pursuant to KRS 365.015, except that this provision shall not apply if the foreign limited partnership applying for a certificate of authority files with the secretary of state any one (1) of the following:~~

~~(a) A resolution adopting a fictitious name for use in transacting business in this state which fictitious name is not deceptively similar to the name of any domestic corporation or of any foreign corporation authorized to transact business in this state or to any name reserved or registered as provided in this chapter, or any assumed name filed with the secretary of state;~~

~~(b) The written consent of such other corporation or holder of a reserved or registered name or assumed name holder to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name; or~~

~~(c) A certified copy of a final decree of a court of competent jurisdiction establishing the prior right to such foreign limited partnership to the use of such name in this state.~~]

(3) *A partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon his records from one (1) or more of the names described in subsection (2) of this section. The secretary of state shall authorize use of the name applied for if:*

(a) The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying partnership; or

(b) The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state.

(4) A partnership may use a fictitious name to transact business in this state if its real name is unavailable and it delivers to the secretary of state for filing a copy of a resolution adopting such fictitious name, which complies with subsection (2) of this section.

(5) The filing of authorization for a foreign limited partnership under the particular partnership name shall not automatically prevent the use of that name or protect that name from use by other persons.

(6) A limited partnership registering to do business in this state under subsection (1) of this section shall not be required to list the names of each limited partner.

Section 2. KRS 362.420 is amended to read as follows:

(1) Two (2) or more persons desiring to form a limited partnership shall:

(a) Sign and swear to a certificate, which shall state:

1. The name of the partnership, which name shall *be distinguishable upon the records of the secretary of state from: the corporate name of a corporation incorporated or authorized to transact business in this state; a corporate name reserved or registered under KRS Chapter 271A; the fictitious name adopted by a foreign corporation authorized to transact business in this state because its real name is unavailable; the corporate name of a not-for-profit corporation incorporated or authorized to transact business in this state or a name filed with the secretary of state under KRS 362.095, 362.420 or 365.015. However, a partnership may apply to the secretary of state for authorization to use a name that is not distinguishable upon his records. The secretary of state shall authorize use of the name applied for if:*

a. The other entity consents to the use in writing and submits an undertaking in form satisfactory to the secretary of state to change its name to a name that is distinguishable upon the records of the secretary of state from the name of the applying partnership; or

b. The applicant delivers to the secretary of state a certified copy of the final judgment of a court of competent jurisdiction establishing the applicant's right to use the name applied for in this state; [~~not be the same as, or deceptively similar to, the name of any domestic corporation existing under the laws of this state or any foreign corporation authorized to transact business in this state, or a name the exclusive right to which is, at the time, reserved in the manner provided in this chapter, or the name of a corporation which has in effect a registration of its corporate name as provided in this chapter, or the name of any foreign or domestic limited partnership authorized to do business in Kentucky or any assumed name registered with the secretary of state pursuant to KRS 365.015, except that this provision shall not apply if the applicant files with the secretary of state either of the following:~~

~~a. The written consent of such other corporation or holder of a reserved or registered name, foreign limited partnership, or assumed name holder, to use the same or deceptively similar name and one (1) or more words are added to make such name distinguishable from such other name; or~~

~~b. A certified copy of the final decree of a court of competent jurisdiction establishing the prior right of the applicant to the use of such name in this state;~~]

2. The character of the business;

3. The location of the principal place of business;

4. The name and place of residence of each member; general and limited partners being respectively designated;

5. The term for which the partnership is to exist;

6. The amount of cash and a description of and the agreed value of the other property contributed by each limited partner;

7. The additional contributions, if any, agreed to be made by each limited partner and the times at which or events on the happening of which they shall be made;

8. The time, if agreed upon, when the contribution of each limited partner is to be returned;

9. The share of the profits or the other compensation by way of income which each limited partner shall receive by reason of his contribution;

10. The right, if given, of a limited partner to substitute an assignee as contributor in his place, and the terms and conditions of the substitution;

11. The right, if given, of the partners to admit additional limited partners;

12. The right, if given, of one (1) or more of the limited partners to priority over other limited partners, as to contributions or as to compensation by way of income, and the nature of such priority;

13. The right, if given, of the remaining general partner or partners to continue the business on the death, retirement or insanity of a general partner; and

14. The right, if given, of a limited partner to demand and receive property other than cash in return for his contribution; and

(b) File for record duplicate originals of the certificate first with the secretary of state, and thereafter file for record one (1) duplicate original of the certificate in the office of the county clerk in the county in which the principal place of business of the partnership is located.

(2) *Every certificate shall be accompanied by a properly completed qualification form prescribed by and obtained from the secretary of state.*

(3) A limited partnership is formed if there has been substantial compliance in good faith with the requirements of subsection (1) of this section.

(4)[~~(3)~~] For such filing, the secretary of state shall receive a fee of ten dollars ($10.00) provided that the certificate does not exceed five (5) pages. For each additional page, the secretary of state shall receive a fee of one dollar ($1.00).

Section 3. KRS 362.650 is amended to read as follows:

(1) The writing to amend a certificate shall:

(a) Conform to the requirements of paragraph (a) of subsection (1) of KRS 362.420 as far as necessary to set forth clearly the change in the certificate which it is desired to make; and

(b) Be signed and sworn to by all members, and an amendment substituting a limited partner or adding a limited or general partner shall be signed also by the member to be substituted or added, and when a limited partner is to be substituted, the amendment shall also be signed by the assigning limited partner.

(2) The writing to cancel a certificate shall be signed by all members.

(3) A person desiring the cancellation or amendment of a certificate, if any person designated in subsections (1) and (2) of this section as a person who must execute the writing refuses to do so, may petition the circuit court of the county in which the principal place of business of the partnership is located to direct a cancellation or amendment thereof.

(4) If the court finds that the petitioner has a right to have the writing executed by a person who refuses to do so, it shall order the secretary of state and the county clerk in the office where the certificate is recorded to record the cancellation or amendment of the certificate; and where the certificate is to be amended, the court shall also cause to be filed for record in said office a certified copy of its decree setting forth the amendment.

(5) A certificate is amended or cancelled when there is filed for record in the office of the secretary of state and of the county clerk where the certificate is recorded:

(a) A writing in accordance with the provisions of subsection (1) or (2) of this section; or

(b) A certified copy of the order of court in accordance with the provisions of subsection (4) of this section.

(6) *Every amendment and cancellation shall be accompanied by a properly completed form, prescribed by and obtained from the secretary of state.*

(7) After the certificate is duly amended in accordance with this section, the amended certificate shall thereafter be for all purposes the certificate provided for by KRS 362.410 to 362.700.

(8)[~~(7)~~] The fee for filing an amendment or cancellation of certificate shall be the same as for an original filing.

Section 4. KRS 365.015 is amended to read as follows:

(1) The real name of a person shall include his or her surname at birth, or his or her name as changed by a court of competent jurisdiction, or the surname of a married woman; the real name of a domestic general partnership is that name which includes the real name of at least one (1) of the partners; the real name of a domestic limited partnership is that name given to it in its agreement of limited partnership and stated in its certificate of limited partnership filed pursuant to KRS 362.420(1)(a); the real name of a domestic business trust is the name set forth in the declaration of trust; and the real name of a domestic corporation is the name set forth in its articles of incorporation. The real name of a foreign general or limited partnership and of a foreign business trust is the name recognized by the laws of the foreign state under which it is formed as being the real name; and the real name of a foreign corporation is the name set forth in its articles of incorporation or the fictitious name adopted for use in this state under KRS 271A.530.

(2) (a) No person, general or limited partnership, business trust or corporation shall conduct or transact business in this state under an assumed name or any style other than his or its real name, as defined in subsection (1) of this section, unless such person, partnership, business trust or corporation has filed a certificate of assumed name;

(b) The certificate shall state the assumed name under which the business will be conducted or transacted, the real name of person, partnership, business trust or corporation and his or its address, including street and number, if any;

(c) A separate certificate shall be filed for each assumed name;

(d) No certificate to be filed with the secretary of state shall set forth an assumed name which is *not distinguishable upon the records of the secretary of state from* [~~identical or deceptively similar to~~] any other assumed name or any corporate name or any foreign limited partnership name previously filed with the secretary of state [~~unless the certificate is accompanied by the written consent of the prior holder of the assumed or corporate or partnership name and such word or words are added to the proposed assumed name so as to distinguish it from the previously filed assumed or corporate or partnership name~~];

(e) The certificate shall be executed and acknowledged for a person, by the person; for a general partnership, by all the partners; for a limited partnership, by a general partner; for a business trust, by the trustees; for a corporation, by *any person authorized to act for the corporation* [~~its president or vice president and secretary or assistant secretary~~].

(3) The certificate of assumed name for a person shall be filed with the county clerk of each county wherein business will be conducted or transacted under an assumed name. The certificate of assumed name for a general or limited partnership, business trust or corporation shall be *delivered to the secretary of state for filing, accompanied by one (1) exact or conformed copy for each county wherein business will be conducted or transacted under such assumed name. One (1) of the exact or conformed copies stamped as "filed" by the secretary of state shall be* filed [~~with the secretary of state and~~] with the county clerk of each county wherein business will be conducted or transacted under *the* [~~an~~] assumed name.

(4) Upon discontinuing the use of an assumed name, the certificate shall be withdrawn by filing a certificate in the office wherein the original certificate of assumed name was filed. The certificate of withdrawal shall state the assumed name, the real name and address of the party transacting business and the date upon which the original certificate was filed. The certificate of withdrawal shall be signed *for a general partnership*

by all the partners, for a limited partnership by a general partner, for a business trust by the trustees, and for a corporation by any person authorized to act for the corporation [~~and acknowledged as required in subsection (2) of this section~~].

(5) A general partnership shall amend an assumed name to reflect a change in the identity of partners. The amendment shall set forth:

(a) The assumed name and date of original filing;

(b) A statement setting out the changes in identity of the partners; and

(c) Shall be signed by all the general partners.

(6) The county clerk shall receive a fee pursuant to KRS 64.012 for filing each certificate, and the secretary of state shall receive a fee of twenty dollars ($20) for filing each certificate *and amendment.*

SB 166. AN ACT relating to the Kentucky Center for the Arts Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.420 is amended to read as follows:

The Kentucky center for the arts corporation:

(1) Shall supervise construction of the Kentucky center for the arts in conjunction with the finance and administration cabinet, and shall provide all management functions for the facility and for any other property acquired or leased pursuant to its powers under this section;

(2) May take, acquire and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, lease or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in any manner provided by law. In the exercise of its power of eminent domain, it shall proceed in the manner provided in the Eminent Domain Act of Kentucky, KRS 416.540 to 416.680;

(3) May issue revenue bonds, subject to procedures which shall be established by the finance and administration cabinet, solely payable from the charges, revenues, rentals, and other funds pledged for their payment for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Shall promote the growth and development of the arts, convention trade, tourism and the hotel industry within Jefferson county and the Commonwealth, through utilization of the Kentucky center to enhance these and the public interest;

(5) May adopt administrative regulations as provided in KRS Chapter 13A governing the operation, maintenance or use of property under its custody and control;

(6) May levy a surcharge on tickets for all functions held within the center to contribute to operating revenue;

(7) May receive tax revenues from any governmental unit, and financial contributions of local governments, private persons and foundations;

(8) Shall have exclusive control of all exhibitions, performances and concessions in the center for the arts. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center, and may sell such property upon ten (10) days notice to satisfy any indebtedness;

(9) Shall develop in conjunction with local hotels, tourist packages including performance and group plans, and shall participate with local hotels and convention bureaus in attracting non-arts related conferences and conventions; [~~and~~]

(10) May establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by the corporation; *and*

(11) May sue and be sued and maintain and defend legal actions in its corporate name.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **SB 301**, **SCR 83**, **HB 280**, **HB 282**.

Motions, Petitions and Communications (continued)

Representative Scorsone moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Scorsone moved the adoption of the following **HR 154**:

HR 154. A RESOLUTION honoring the Blue Grass Trust for Historic Preservation.

WHEREAS, the Blue Grass Trust for Historic Preservation has been an integral part of the Lexington community for thirty-three years; and

WHEREAS, the Blue Grass Trust for Historic Preservation identifies and protects historic structures in an effort to preserve our national history; and

WHEREAS, Senator John Pope (1770-1845) was an important early Kentucky figure and a member of both the House and the Senate; and

WHEREAS, the Blue Grass Trust for Historic Preservation recognized the historical significance of the Senator John Pope house in Lexington, designed in 1811-12 by architect Benjamin Henry Latrobe, the first professionally trained architect in the U.S., as well as Thomas Jefferson's architect of the U.S. Capitol building in Washington, D.C.; and

WHEREAS, the Blue Grass Trust for Historic Preservation took an innovative approach in January, 1988, by purchasing the Senator John Pope house which had been damaged by fire and was in danger of demolition;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives of the Commonwealth of Kentucky does hereby commend the Blue Grass Trust for Historic Preservation for its vision and leadership in the purchase of and its refurbishing plan for the Senator John Pope house.

Section 2. That when the House of Representatives adjourns this day, Thursday, March 10, 1988, it does so in honor of the Blue Grass Trust for Historic Preservation.

Section 3. That the Clerk of the House of Representatives be directed to send a copy of this resolution to the Blue Grass Trust for Historical Preservation, 201 North Mill Street, Lexington, Kentucky 40508.

HR 154 was adopted by voice vote.

Representative K. Harper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative K. Harper moved the adoption of the following **HR 162**:

HR 162. A RESOLUTION to adjourn in memory of former state legislator Alex McIntyre, Jr.

With deepest respect we pay homage and tribute to the memory of a great Kentuckian, Alex McIntyre, Jr.

WHEREAS, a Perry County native, Alex McIntyre, Jr. diligently served two consecutive terms as state representative beginning in 1964; and

WHEREAS, in 1967, Governor Louie B. Nunn appointed him state motor transportation commissioner; and

WHEREAS, Alex McIntyre, Jr. through his diligence and hard work founded Cash Wholesale Company in Hazard about 1952 and opened Jackson Wholesale Company about 1962, after seeing his business in Hazard flooded out twice; and

WHEREAS, Alex McIntyre, Jr. served as director and legislative chairman of the Kentucky Wholesale Grocers Association; and

WHEREAS, a highly respected and principled man, Alex McIntyre, Jr. was a member of the board of trustees of Lees College; and

WHEREAS, Alex McIntyre, Jr. will be sorely missed by his colleagues and friends;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House does express its deepest sense of bereavement and loss upon the passing of Alex McIntyre, Jr., an outstanding citizen and exemplary representative of the Commonwealth.

Section 2. That the members of this honorable body commend the loved ones of Alex McIntyre, Jr. to the solace of the Almighty to help soothe the pain of these dark moments.

Section 3. That when the House of Representatives of the General Assembly of the Commonwealth of Kentucky does adjourn this day, Tuesday, March 15, 1988, it does so in memory of its native son Alex McIntyre, Jr.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to the wife, Felcia Rogers McIntyre, and family of Alex McIntyre, Jr.

HR 162 was adopted by voice vote.

Representative A. Jones moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative A. Jones moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative McElroy moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative McElroy moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 443**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 944**. Agreed.

Representative Adkins moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Adkins moved that his vote be changed from "yea" to "nay" on **HB 720**. Agreed.

Representative Lear moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Lear moved that he be recorded as voting "yea" on **HB 968**. Agreed.

Representative McElroy moved the rules be suspended for the purpose of recording votes. Agreed.

Representative McElroy moved that his vote be changed from "yea" to "nay" on **HB 929** and **HB 720**. Agreed.

Representative Noe moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Noe moved that he be recorded as voting "yea" on **HB 500**. Agreed.

Representative Strong moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Strong moved that his vote be changed from "nay" to "yea" on **HB 660**. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 484**. Agreed.

Representative Pritchett moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Pritchett moved that he be recorded as voting "nay" on **HB 665**. Agreed.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 1, Representative Ackerson; **HB 20**, Representative Ackerson; **HB 176**, Representatives Richards, Ridley; **HB 246**, Representative White; **HB 247**, Representative K. Harper; **HB 248**, Representatives Mason, White; **HB 249**, Representative Noe; **HB 343**, Representatives Ballard, Castleman; **HB 354**, Representative LeMaster; **HB 371**, Representatives Donnermeyer, White; **HB 452**, Representative White; **HB 514**, Representative Northup; **HB 520**, Representatives Ackerson, Northup; **HB 551**, Representatives Freibert, Hatcher, Lile; **HB 552**, Representatives Freibert, Hatcher, Lile; **HB 586**, Representative Ackerson; **HB 606**, Representative Scorsone; **HB 730**, Representative Will; **HB 790**, Representative Richards; **HB 862**, Representative Blevins; **HB 968**, Representative Seum; **HB 989**, Representative White; **HCR 62**, Representative Freibert.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:.

Floor Amendment No. 1 to **HB 574**, by Representative K. Harper:

Amend printed copy of **HB 574** on page 2, line 5, By deleting the word "*without*" and inserting in lieu thereof the word "*with*"

Floor Amendment No. 1 to Committee Substitute to **HB 672**, by Representative Gray:

Amend printed copy of Committee Substitute to **HB 672** on page 1, line 5, by deleting "*unreasonably*";

On page 1, line 12, by bracketing and striking through "or" and by inserting in lieu thereof ","; and

On page 1, line 12, following "defended" by adding "*or delayed*"

Floor Amendment No. 1 to Committee Substitute to **HB 673**, by Representative Ridley:

Amend printed copy of Committee Substitute to **HB 673** on page 20, after line 14,

Section 5. KRS 177.9771 is amended to read as follows:

(1) The "extended weight coal *or coal by-products* haul road system" shall consist of public highways over which quantities of coal *or coal by-products* in excess of fifty thousand (50,000) tons were transported by motor vehicles during the period from January 1, 1985, through December 31, 1985 and shall be updated annually thereafter.

(2) The secretary of the transportation cabinet shall by official order on or before November 1, of each year, certify such public highways or portions thereof, as fulfill the criteria in subsection (1) of this section, as the extended weight coal *or coal by-products* haul road system.

(3) The total tons of coal *or coal by-products* transported by motor vehicles over any public highway shall be determined from the official coal *or coal by-products* road system transportation report required pursuant to KRS 177.977.

(4) Any vehicle when registered with a declared gross weight of eighty thousand (80,000) pounds and when transporting coal *or coal by-products* over public highways which are part of the extended weight coal *or coal by-products* haul road system or portions thereof, may be operated at the weights as set forth below in excess of the maximum gross weight prescribed in KRS 189.221 and 189.222 and any other maximum weight limitations on state or county maintained systems by entering into a cooperative agreement as provided in KRS 177.979 or by paying the corresponding decal fee as set forth below:

(a) A single unit truck having one (1) steering axle and two (2) axles in tandem shall be limited to a maximum gross weight of ninety thousand (90,000) pounds with a tolerance of five percent (5%), and pay a decal fee of one hundred sixty dollars ($160) annually;

(b) A single unit truck having one (1) steering axle and three (3) axles in tridem arrangement shall be limited to a maximum gross weight of one hundred thousand (100,000) pounds with a tolerance of five percent (5%), and pay a decal fee of two hundred sixty dollars ($260) annually;

(c) Tractor-semitrailer combinations with five (5) or more axles shall be limited to a maximum gross weight of one hundred twenty thousand (120,000) pounds with a tolerance of five percent (5%), and pay a decal fee of three hundred sixty dollars ($360) annually;

(d) Any motor carrier involved in the transportation of coal *or coal by-products* which meets gross axle weights of twenty thousand (20,000) pounds per axle and twelve thousand (12,000) pounds for the steering axle may register in excess of eighty thousand (80,000) pounds by payment of eight hundred and forty dollars ($840) plus an additional decal fee of ten dollars ($10) per one thousand (1,000) pounds of registered weight above eighty thousand (80,000) pounds;

(e) For purposes of this section, KRS 177.979 and 189.230, and for purposes of the extended weight coal *or coal by-products* haul system, the dimensional requirements of motor vehicles shall conform to all appropriate federal laws and regulations;

(f) The payment of the decal fee shall be in addition to any state registration fee, user fee or other decal fee, including the registration fee as specified in KRS 186.050(3);

(g) Motor vehicles used in the transportation of coal *or coal by-products* under cooperative agreements pursuant to KRS 177.979 shall be exempt from the payment of the decal fee as set forth in this section and the registration fee as set forth in KRS 186.050(3) as long as the truck is driven over cooperative roads only while full. The transportation cabinet shall issue identifying license plates for those motor vehicles under cooperative agreements;

(h) All fees under this section shall be scheduled for payment and prorated pursuant to the provisions of KRS 186.051; and

(i) All revenues generated pursuant to this section shall be credited to a special account within the road fund called the "energy recovery road fund."

(5) Sixty percent (60%) of all energy recovery road funds shall be used by the department of highways for construction, maintenance, and repair of the state-maintained portion of the extended weight coal *or coal by-products* haul road system.

(6) Forty percent (40%) of all energy recovery road funds shall be distributed to the fiscal court of those counties in which coal *or coal by-products* is transported for the sole purpose of construction, maintenance and repair of the county-maintained portion of the extended weight coal *or coal by-products* haul system. The distribution of funds to the counties shall be proportioned based on the miles of county roads on the extended weight coal *or coal by-products* haul system in each county compared to the total mileage of county roads in the total extended weight coal *or coal by-products* haul road system and the tons of coal *or coal by-products* transported over county roads on the extended weight coal *or coal by-products* haul system in each county compared to the total tons of coal *or coal by-products* transported over county roads in the total extended weight coal *or coal by-products* haul road system.

(7) Nothing in this section shall be construed or administered to jeopardize the receipt of federal funds for highway purposes and the secretary of transportation shall not act in any manner which shall jeopardize federal highway funds or funds to be received by the Commonwealth. In no event shall this section be construed to authorize any vehicle to operate on a federal interstate highway in excess of those limits prescribed in KRS 189.222. Likewise, nothing in this section shall be construed to prohibit the department of highways from providing for the public safety and convenience of the traveling public on the highway.

(8) As soon as practical after the report is prepared and published pursuant to KRS 177.977 for any calendar year after 1985, the secretary shall add to or delete from the extended weight coal *or coal by-products* haul road system public highways or portions thereof based upon the criteria set out in this section. However, deletion of a public road or portion thereof from the extended weight coal *or coal by-products* haul road system shall not affect the eligibility of such roads for highway funds or programs applicable to the extended weight coal *or coal by-products* haul road system.

(9) A fiscal court or a governing body of a city of the first through fourth class or urban-county government may by resolution, make recommendation to the secretary of the transportation cabinet that certain roads or road segments in the county or corporate city limits pose inherent and definite hazards or special conditions and that the secretary shall meet with said fiscal court or local governing body and take into consideration their concerns before adding to or deleting from the extended weight coal *or coal by-products* haul system.

(10) The secretary of the transportation cabinet is authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as may be necessary to administer the provisions of this section, KRS 177.9772, 177.979 and 189.230.

Floor Amendment No. 1 to Committee Amendment No. 1 to **HB 721**, by Representative Donnermeyer:

Amend printed copy of HCA 1 to **HB 721** on page 1, line 12, by deleting "*two (2) years after*" and inserting in lieu thereof "*upon*".

Floor Amendment No. 1 to Committee Substitute to **HB 740**, by Representative Mason:

Amend printed copy of Committee Substitute to **HB 740** on page 1, line 6, after the word "*use*" and before the "," insert: "*and non-commercial and incidental use by a landowner or tenant*"

Floor Amendment No. 1 to **HB 814**, by Representative Napier:

Amend printed copy of **HB 814** on page 2, after line 12 by adding:

"Section 2. KRS 304.20-020 is amended to read as follows:

(1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury *tort liabilities* or death set forth in KRS 304.39-110 under provisions approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury *tort liabilities*, sickness or disease, including death, resulting therefrom; Provided That the named insured shall have the right to reject in writing such coverage; and Provided further That, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) For the purpose of this coverage the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; an insured motor vehicle with respect to which the amounts provided, under the bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such motor vehicle, are less than the limits described in KRS 304.39-110; and an insured motor vehicle to the extent that the amounts provided in the liability coverage applicable at the time of the accident is denied by the insurer writing the same.

(3) Protection against an insurer's insolvency shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(4) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer."

Floor Amendment No. 1 to Committee Substitute to **HB 868**, by Representative Blevins:

Amend printed copy of Committee Substitute to **HB 868** on page 2, line 9,

By deleting the words "*advisory council of*" and inserting in lieu thereof "*Kentucky nursing scholarship incentive fund committee to be comprised of three (3) members, one representative each from the Kentucky hospital association, the Kentucky association of health care facilities and*"

And on page 2, line 12,

By deleting the words "*advisory council*" and inserting in lieu thereof "*Kentucky nursing scholarship incentive fund committee*"

And on page 2, line 14,

After the word "*board*" by inserting "*, sponsoring hospital or long-term care facility*"

And on page 3, line 13,

After the word "*in*" by deleting the words "*a Kentucky health*" and inserting in lieu thereof "*the sponsoring Kentucky hospital or long-term*"

And on page 3, line 18,

After the word "*president*" by inserting "*, sponsoring hospital or long-term care facility*"

Floor Amendment No. 1 to **HB 955**, by Representative Lundergan:

Amend printed copy of **HB 955** on page 1, line 19, after the word "*eligible*" by deleting the word "*without*" and inserting in lieu thereof "*, upon successful completion of the license*";

On page 1, line 19, after the word "*examination*" by inserting a comma ","; and

On page 1, line 21, after the word "*application*" by inserting the words "*to the board of barbering*".

Floor Amendment No. 1 to Committee Substitute to **HB 956**, by Representative LeMaster:

Amend printed copy of Committee Substitute to **HB 956** on page 2, line 8, after the word "*notwithstanding*" by deleting the words "*a track conducting a race*" and by deleting lines 9 through 14 in their entirety and inserting in lieu thereof the following: "*a host track and a receiving track may, at their discretion, enter into agreements for and engage in simulcasting and intertrack wagering in accordance with the provisions of this Act.*"

On page 2, by deleting lines 15 through 20 in their entirety and inserting in lieu thereof the following:

"*(2) In a county with a population of one hundred fifty thousand (150,000) or more people and containing more than one (1) track, receipt of simulcasting and participation in intertrack wagering as a receiving track on the same days on which racing is conducted in the county is prohibited unless the track conducting racing agrees in writing to such simulcasting.*"

On page 3, line 4, after the word "*county*" by inserting the following, "*with a population of one hundred fifty thousand (150,000) or more people and*";

On page 5, line 14, after the word "*the*" by deleting the word "*wages*" and inserting in lieu thereof the word "*wagers*";

On page 6, line 12, after the word "*Through*" by deleting the date "*July 15, 1988*" and inserting in lieu thereof the date "*June 30, 1990*";

On page 6, line 21, after the word "until", by deleting "*July 15*" and by removing the brackets and strike throughs from the date "June 30" and after "June 30", by inserting the year "*1990*" and by placing brackets around and striking through the year "1988";

On page 7, line 2, after the word "until" by deleting the date "*July 15*" and by removing the brackets and strike throughs from the date "June 30" and after "June 30," by inserting the year "*1990*" and by placing brackets around and striking through the year "1988";

On page 8, line 3, after the word "*Through*" by deleting the date "*July 15, 1988*" and inserting in lieu thereof the date "*June 30, 1990*";

On page 8, line 18, after the word "until" by deleting the word "*July*" and on line 19 by deleting the number "*15*" and by removing the brackets and strike throughs from the date "June 30" and after the date "June 30" by inserting the year "*1990*" and by placing brackets around and striking through the year "1988";

On page 9, line 21, after the word "*Effective*" by deleting the date "*July 15, 1988*" and inserting in lieu thereof the date "*July 1, 1990*";

On page 10, line 25, after the word "*deducted*" by deleting the word "*form*" and inserting in lieu thereof the word "*from*"; and

On page 21, line 6, after the word "*Effective*" by deleting the date "*July 15, 1988*" and inserting in lieu thereof the date "*July 1, 1990*".

Floor Amendment No. 1 to **HB 968**, by Representative Burch:

Amend printed copy of **HB 968** on page 8, line 21,

By inserting after the word "the" the following:

"*accrediting agency recommended by the U. S. department of education or the*"

Floor Amendment No. 1 to **HB 1018**, by Representative Napier:

Amend printed copy of **HB 1018** on page 2, after line 6 by adding:

"Section 2. KRS 304.20-020 is amended to read as follows:

(1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury *tort liabilities* or death set forth in KRS 304.39-110 under provisions approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury *tort liabilities*, sickness or disease, including death, resulting therefrom; Provided That the named insured shall have the right to reject in writing such coverage; and Provided further That, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) For the purpose of this coverage the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; an insured motor vehicle with respect to which the amounts provided, under the bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such motor vehicle, are less than the limits described in KRS 304.39-110; and an insured motor vehicle to the extent that the amounts provided in the liability coverage applicable at the time of the accident is denied by the insurer writing the same.

(3) Protection against an insurer's insolvency shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(4) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer."

Floor Amendment No. 1 to **SB 68**, by Representative Napier:

Amend printed copy of GA Copy of **SB 68** on page 2, after line 1 by adding:

"Section 2. KRS 304.20-020 is amended to read as follows:

(1) No automobile liability or motor vehicle liability policy of insurance insuring against loss resulting from liability imposed by law for bodily injury or death suffered by any person arising out of the ownership, maintenance or use of a motor vehicle shall be delivered or issued for delivery in this state with respect to any motor vehicle registered or principally garaged in this state unless coverage is provided therein or supplemental thereto, in limits for bodily injury *tort liabilities* or death set forth in KRS 304.39-110 under provisions approved by the commissioner, for the protection of persons insured thereunder who are legally entitled to recover damages from owners or operators of uninsured motor vehicles because of bodily injury *tort liabilities*, sickness or disease, including death, resulting therefrom; Provided That the named insured shall have the right to reject in writing such coverage; and Provided further That, unless the named insured requests such coverage in writing, such coverage need not be provided in or supplemental to a renewal policy where the named insured had rejected the coverage in connection with a policy previously issued to him by the same insurer.

(2) For the purpose of this coverage the term "uninsured motor vehicle" shall, subject to the terms and conditions of such coverage, be deemed to include an insured motor vehicle where the liability insurer thereof is unable to make payment with respect to the legal liability of its insured within the limits specified therein because of insolvency; an insured motor vehicle with respect to which the amounts provided, under the bodily injury liability bond or insurance policy applicable at the time of the accident with respect to any person or organization legally responsible for the use of such motor vehicle, are less than the limits described in KRS 304.39-110; and an insured motor vehicle to the extent that the amounts provided in the liability coverage applicable at the time of the accident is denied by the insurer writing the same.

(3) Protection against an insurer's insolvency shall be applicable only to accidents occurring during a policy period in which its insured's uninsured motorist coverage is in effect where the liability insurer of the tortfeasor becomes insolvent within one (1) year after such an accident. Nothing herein contained shall be construed to prevent any insurer from affording insolvency protection under terms and conditions more favorable to its insureds than is provided hereunder.

(4) In the event of payment to any person under the coverage required by this section and subject to the terms and conditions of such coverage, the insurer making such payment shall, to the extent thereof, be entitled to the proceeds of any settlement or judgment resulting from the exercise of any rights of recovery of such person against any person or organization legally responsible for the bodily injury for which such payment is made, including the proceeds recoverable from the assets of the insolvent insurer."

Floor Amendment No. 1 to **SB 180**, by Representative Lear:

Amend printed copy of **SB 180** on page 8, after line 2, by adding the following:

"Section 2. KRS 337.065 is amended to read as follows:

(1) No employer shall require an employe to remit to the employer any gratuity, or any portion thereof, except for the purpose of withholding amounts required by federal or state law. The amount withheld from such gratuity shall not exceed the amount required by federal or state law.

(2) As used in this section "gratuity" means voluntary monetary contribution received by an employe from a guest, patron, or customer for services rendered.

(3) A gratuity charged on a credit card shall be paid to the employe no later than his regular pay day by the employer, who may reduce the gratuity by a percentage equal to the service fee percentage charged by the credit card company.

(4) An employer is hereby prohibited from recovering any gratuity from an employe when a credit card company refuses to honor the credit card of a customer."

Floor Title Amendment to **SB 180**, by Representative Lear:

Amend printed copy of **SB 180**, Title, by deleting "retirement" and inserting in lieu thereof "tips".

The Clerk announced the following meetings:

The Committee on Labor and Industry, March 16, 1988, upon adjournment, Room 104.

Majority Caucus, Room 109, upon adjournment.

The Committee on Counties and Special Districts, March 16, 1988, 8:30 a.m.

The Committee on Rules, Speaker's Office, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Wednesday, March 16, 1988.

On the roll call the vote was yeas 80-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, J. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Lyne, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, R. Smith, Stumbo, Turner, Walker, White, Will, Yates. Nays 3-Bronger, Heleringer, LeMaster.

The motion to adjourn was adopted.

WEDNESDAY, MARCH 16, 1988

FORTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Larry Carte, New Zion Baptist Church, Williamsburg, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 15, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 42**, **SB 119**, **SB 143**, **SB 219**, **SB 241**, **SB 242**, **SB 268**, **SB 277**, **SB 284**, **SB 285**, **SB 303**, **SB 326**, **SB 329**, **SB 331**, **SB 376**, **SCR 70**, **SJR 71**, **HB 410** with Senate Amendment, **HB 437** with Senate Amendment, **HB 504** with Senate Amendment, **HB 361**, **HB 408**, **HB 415**, **HB 509** and **HB 641**.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 5** and **HB 283** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:05 p.m.)

HB 5 and **HB 283** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Introduction of Resolutions

HR 164, by Representative Cline: A RESOLUTION congratulating Kentucky Christian College Men's Basketball Team, the Knights.

HR 165, by Representative Heleringer: A RESOLUTION adjourning in memory and honor of Frank J. Muth.

Report of Committees

The Committee on Appropriations and Revenue reported **HB 959** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 959. AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.040 is amended to read as follows:

(1) Every corporation organized under the laws of this state, every corporation having its commercial domicile as defined in KRS 141.120(1)(b) in this state, and every foreign corporation owning or leasing property located in this state or having one (1) or more individuals receiving compensation as defined in KRS 141.120(8)(b) in this state, except those corporations listed in paragraphs (a) to (h) of this subsection, shall pay for each taxable year a tax to be computed by the taxpayer on taxable net income at the rates specified in subsections (2), (3) and (4) of this section:

(a) S corporations;

(b) State and national banks and trust companies;

(c) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(d) Banks for cooperatives;

(e) Production credit associations;

(f) Insurance companies, including farmers or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers and reciprocal underwriters;

(g) Corporations exempt under section 501 of the Internal Revenue Code; and

(h) Religious, educational, charitable or like corporations not organized or conducted for pecuniary profit.

(2) For tax years ending before August 1, 1985, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000) but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000); and

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000).

(3) For tax years beginning after July 31, 1985, the following rates shall apply:

(a) Three percent (3%) of the first twenty-five thousand dollars ($25,000) of taxable net income;

(b) Four percent (4%) of the amount of taxable net income in excess of twenty-five thousand dollars ($25,000), but not in excess of fifty thousand dollars ($50,000);

(c) Five percent (5%) of the amount of taxable net income in excess of fifty thousand dollars ($50,000), but not in excess of one hundred thousand dollars ($100,000);

(d) Six percent (6%) of the amount of taxable net income in excess of one hundred thousand dollars ($100,000), but not in excess of two hundred fifty thousand dollars ($250,000); and

(e) Seven and twenty-five one hundredths percent (7.25%) of the amount of taxable net income in excess of two hundred fifty thousand dollars ($250,000).

(4) For tax years beginning before August 1, 1985, and ending after July 31, 1985, the tax shall be the sum of the amounts determined in paragraphs (a) and (b) as follows:

(a) Apply the tax rates in subsection (2) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from the first day of the taxable year through July 31, 1985, and the denominator of which is the total number of days of the taxable year; and

(b) Apply the tax rates in subsection (3) of this section to the taxable net income for the year and multiply the result by a fraction, the numerator of which is the number of days from August 1, 1985, through the last day of the taxable year and the denominator of which is the total number of days of the taxable year.

(5) Every S corporation shall pay the tax imposed under subsection (1) of this section whenever the net capital gain of such corporation exceeds twenty-five thousand dollars ($25,000), and exceeds fifty percent (50%) of its taxable income for the taxable year and its taxable income for such year exceeds twenty-five thousand dollars ($25,000). The tax imposed by this subsection shall be the lower of:

(a) The tax determined by applying the rates in this section to the capital gains, in excess of twenty-five thousand dollars ($25,000), determined under the Internal Revenue Code; or

(b) The tax determined by applying the rates in this section to the taxable income, in excess of twenty-five thousand dollars ($25,000)[~~, determined under Chapter 1 of the Internal Revenue Code~~];

In no event shall the tax levied by this subsection apply if section 1374 of the Internal Revenue Code would exempt such capital gains from federal income tax.

Section 2. KRS 141.206 is amended to read as follows:

(1) Every partnership *or S corporation* owning property or engaging in business in Kentucky, shall, on or before the fifteenth day of the fourth month following the close of its annual accounting period, file a *copy of its federal partnership return or S corporation return with the* [~~report or return on such~~] form [~~as may be~~] prescribed and furnished by the cabinet.

(2) *Partnerships and S corporation shall determine taxable income in the same manner as in the case of an individual under KRS 141.010(9) to (11) and the adjustment required under Sections 703(a) and 1363(b) of the Internal Revenue Code. Computation of taxable income under this section and the computation of the partners or shareholders distributive share shall be computed as nearly as practicable identical with those required for federal income tax purposes except to the extent required by differences between this chapter and the federal income tax law and regulations.*

(3) Individuals *or corporations* carrying on a business *as a* [~~in~~] partnership *or S corporation* shall be liable for income tax only in their individual *or corporate* capacities, and no income tax shall be assessed upon the [~~net~~] income of any partnership *or S corporation as prescribed in KRS 141.040(5).*

(a) Resident and nonresident individuals who are partners or S corporation shareholders must report and pay tax on the distributive share of net income, gain, loss, deduction, or credit, as determined in subsection (2) of this section, except as provided in subsections (4) and (5) of this section. Partnerships and S corporations may be required to withhold Kentucky income tax on the distributive share under administrative regulations issued by the cabinet.

(b) Corporations which are partners must include their distributive share of net income, gain, loss, deduction or credit, as determined under subsection (2) of this section, except as provided in subsections (4) and (5) of this section.

(4) Resident and nonresident individuals and corporations which are partners in a partnership or shareholders in a S corporation carrying on business only in Kentucky are taxable on all items of income gain, loss, deduction or credit determined under subsection (2) of this section and reported as their distributive share from the partnership or S corporation.

(5) Nonresident individuals and corporations which are partners in a partnership or shareholders in an S corporation which does business within 'and without Kentucky are taxable on their proportionate share of the distributive income passed through the partnership or S corporation attributable to business done in Kentucky.

(a) Business done in Kentucky is determined by the ratio of gross receipts from sales to purchasers or customers in Kentucky or services performed in Kentucky to the total gross receipts from sales or service everywhere.

(6) Resident partners, S corporation shareholders and corporations which are partners in a multi-state partnership or shareholders in a multi-state S corporation are taxable on one hundred percent (100%) of the distributive share of income, gains, losses, deductions or credits.

(7) Resident individuals who are partners in a partnership or shareholders in a S corporation which

does not carry on business in Kentucky are subject to tax under KRS 141.020 on federal net income, gain, deduction, loss or credit passed through the partnership or S corporation.

(8) S corporation for purpose of this section means a corporation which has elected for federal tax purposes to be taxed as a S corporation. An election for federal tax purposes is a binding election for Kentucky tax purposes.

Section 3. This Act shall be effective for tax years beginning after December 31, 1987.

The Committee on Appropriations and Revenue reported **HB 22** with Committee Amendment attached thereto, **HB 176** with Committee Substitute and Committee Amendment attached thereto, **HB 194** with Committee Amendment attached thereto, and **HB 249** with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to **HB 22** is as follows:

Amend printed copy of **HB 22** on page 1, line 1 through page 17, line 1, by deleting Section 1 in its entirety;

On page 17, line 2, by changing the "2" to "1";

On page 17, line 17, by changing the "3" to "2";

On page 20, lines 19 to 22, by deleting the brackets and strikethrough;

On page 21, line 1, by deleting the brackets, strikethrough and the letter "*(d)*";

On page 21, line 8, by changing "*(e)*" to "*(f)*";

On page 21, lines 9 and 10, by deleting the brackets and strikethough;

On page 21, line 11, by changing the "*(f)*" to "*(g)*";

On page 21, line 15, by changing the "*(g)*" to "*(h)*";

On page 21, lines 20 to 26, by deleting the bracket and strikethrough;

On page 22, line 1, by deleting the bracket and strikethrough;

On page 21, line 21, bracket and strikethough "(j)" and insert in lieu thereof "*(i)*";

On page 22, line 14, by changing "4" to "3"; and

On page 23, line 20, by changing "5" to "4".

The Committee on Counties and Special Districts reported **HB 843** with Committee Substitute, **HB 900** with Committee Amendment attached thereto, **SB 249** with Committee Amendment attached thereto, and **SCR 53** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 843, AN ACT relating to county police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.400 is amended to read as follows:

As used in KRS 78.400 to 78.480 and 78.990, unless the context otherwise requires the following words and terms shall have the following meaning:

(1) "Board" means the county police force merit board or boards hereinafter created.

(2) "Chief" means the chiefs of the county police forces affected by KRS 78.400 to 78.480 and 78.990.

(3) "Assistant chief" means the next in command to the chiefs of the county police forces affected by KRS 78.400 to 78.480 and 78.990.

(4) "Secretary" means the executive secretary and examiner employed by the county police force merit board or boards hereinafter created.

(5) "Officer" means any member of the county police forces affected by KRS 78.400 to 78.480 and 78.990, *including those newly employed for any covered office or position during any period of probationary employment if there is a period of probationary employment subsequent to initial hiring by the county police forces, and* including chiefs and assistant chiefs and all commissioned or noncommissioned patrolmen, corporals, sergeants, lieutenants and captains.

(6) "Employe" means all other employes of the county police forces affected by KRS 78.400 to 78.480 and 78.990 *and shall include those newly employed during any period of probationary employment if there is a period of probationary employment subsequent to initial hiring of county police forces.*

Section 2. KRS 78.405 is amended to read as follows:

(1) Any county of the commonwealth of Kentucky may, by order of its fiscal court, duly made and entered of record, create a county police force merit system, and for that purpose, establish a county police force merit board, whose duties it shall be to classify and examine applicants seeking employment as officers or employes of the police force of the said county, and in addition *thereto* to promulgate rules and regulations *not inconsistent with KRS 78.400 to 78.480 and 78.990* governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension and other disciplinary action within the said county police force of all personnel of the county police force or forces affected and covered by KRS 78.400 to 78.460 and 78.990, and in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected by KRS 78.400 to 78.460 and 78.990.

(2) *No county police force merit board created pursuant to the authority granted hereunder may promulgate rules and regulations governing the classification, qualification, examination, appointment, promotion, demotion, fine, suspension, or other disciplinary action within a county police force which shall be inconsistent with the express provisions of KRS 78.400 to 78.480 and 78.990, nor shall hearings, either public or executive, be held or withheld contrary to the express provisions of KRS 78.400 to 78.480, nor penalties be imposed upon the personnel affected by KRS 78.400 to 78.480 and 78.990 inconsistent with the express provisions of KRS 78.400 to 78.480 and 78.990.*

(3) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

(4) The board shall appoint other employes it deems necessary in accordance with the provisions of this chapter. The salaries of the secretary/examiner and other employes of the board shall be determined by order of the board. The secretary/examiner of the board shall prepare the budget request for approval by the board in the form and manner required by applicable law. For the purposes of KRS 68.240 the board shall be considered a budget unit.

Section 3. KRS 78.420 is amended to read as follows:

(1) Upon appointment and qualification of the members of the board, they shall meet within the thirty (30) days following the creation of the board and elect their chairman and vice-chairman and adopt such rules and regulations and bylaws *not inconsistent with KRS 78.400 to 78.480 and 78.990* [~~as they see fit~~] for the proper conduct of their offices. In all matters requiring a vote, a majority of the board members present and voting shall determine any question, provided that at least three (3) board members be present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board must be present to constitute a quorum, one (1) of which must be a police officer as defined in subsection (3) of KRS 78.410. *In the case of a tie vote in matters involving discipline, the board shall enter an order reversing the disciplinary action taken against the officer.*

Section 4. KRS 78.425 is amended to read as follows:

(1) All *officers, either permanent or probationary of whatever rank and title as defined in KRS 78.400(5), and all employes, either permanent or probationary as defined in KRS 78.400(6), are covered by the provisions of KRS 78.400 to 78.480 and 78.990* [~~police officers of whatever rank and title, and all employes of every county police force affected by KRS 78.400 to 78.460 and 78.990 are covered by the provisions hereof~~]. All such covered officers and employes of every county police force on active duty or service as of the effective date of a duly made and entered order of the fiscal court of the said county creating a county police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for their respective county police force without examination or further qualification, except and unless the chief of police of any county police force shall within sixty (60) days after the establishment of the board certify to the said board that any officer or employe is physically unfit to continue his or her duties.

(2) Where a merit system is established which covers a county fire department, the provisions of subsection (1) shall apply to the county fire department as they apply to the county police force.

(3) All personnel covered by the provisions *of* (a) [~~of~~] KRS 78.400 to *78.480* [~~78.460~~], or (b) KRS 67.323, 67.325 and this section, or both, *who may be employed or retained in employment on a probationary basis for an initial or continued employment period with retention in employment conditioned upon satisfactory performance of their respective duties and good behavior, shall be afforded the same procedural rights and privileges afforded permanent nonprobationary personnel under KRS 78.400 to 78.480, 67.323 and 67.325, as the case may be, during any such period of probationary employment* [~~shall be deemed to be permanent employes subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior~~].

Section 5. KRS 78.440 is amended to read as follows:

(1) Every county police force merit system board created hereunder shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, promotion, demotion, transfer, layoff, reinstatement, suspension, fine and removal of the officers and employes covered by KRS 78.400 to 78.460. *No rule or regulation made, promulgated, or amended by any county police force merit system board shall be inconsistent with the express provisions of this chapter.* The board shall publish its rules and any amendments thereto by supplying a certified copy thereof to the county judge/executive, the fiscal court and the chief, and by posting a copy thereof conspicuously in the office or place where the headquarters of the county police is maintained. Said rules and amendments thereto shall be published in the manner prescribed within three (3) days after the adoption thereof.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) 1. Physical, mental, educational, citizenship and age requirements for new employes and officers.

2. Physical, mental, educational, citizenship and age requirements for new employes and officers and seniority requirements for promotion from lower to higher rank or classification.

3. A grade A patrolman must have three (3) years of service as a grade A patrolman before he may be eligible for the promotion to the rank of sergeant. If there are fewer than fifty (50) police officers on the police force, the merit board may waive this service requirement.

(b) 1. Open competitive written, oral and physical tests to determine the relative fitness of all candidates and examinations for original appointment and for promotion.

2. Public notices of examinations provided in subparagraph 1 of paragraph (b) and subparagraph 2 of paragraph (a) of this subsection.

(c) Temporary appointments in case of emergency.

(d) Organization and meetings of the board.

(e) Procedure and conduct of public hearings.

(3) No county police force merit system board shall adopt a rule requiring the retirement of officers or employes prior to the first day of the month following the officer or employe's fifty-eighth (58th) birthday. This subsection shall not prohibit retirement prior to age fifty-eight (58) on a voluntary basis.

(4) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall *not be employed or retained in any other capacity by county government, and said chief examiner shall* formulate, give, grade and administer all written tests as required by the board. Said chief examiner shall report to the board the results of all tests given by him and he shall be solely responsible to the board. The chief examiner shall select a panel of four (4) members to conduct an oral examination of the applicants for promotion. The panel shall consist of two (2) persons of a supervisory capacity from the same classified service as the applicant and two (2) persons from an outside agency or agencies in the same field. The chief examiner shall compile the grades of all applicants *in strict compliance with procedures and percentages* [~~based upon the percentages~~] as set out below and shall deliver, in a sealed envelope, the scores of all applicants for promotion to the chairman of the board. The chief examiner shall not reveal to anyone the results of said tests other than in the manner set forth herein. If there are fewer than fifty (50) applicants for testing, the merit board may waive the requirements of this subsection and substitute other appropriate testing methods as determined by the board, *but no such testing method or the grading thereof shall depart from or be inconsistent with the procedures and percentages set out below which shall be strictly followed in determining an applicant's eligibility for promotion.*

(5) Physical fitness for promotion is presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(6) At least ninety (90) days' notice shall be given before the promotional examination is conducted.

(7) The grading of promotional tests shall be as follows: fifty-five (55) per cent for written examination; thirty (30) per cent for oral examination; one (1) per cent for each year in seniority in grade, not to exceed fifteen (15) per cent.

The Committee Substitute to **HB 843** is as follows:

HB 843. AN ACT relating to county police.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.405 is amended to read as follows:

(1) Any county of the commonwealth of Kentucky may, by order of its fiscal court, duly made and entered of record, create a county police force merit system, and for that purpose, establish a county police force merit board, whose duties it shall be to classify and examine applicants seeking employment as officers or employes of the police force of the said county, and in addition *thereto* to promulgate rules and regulations *not inconsistent with KRS 78.400 to 78.480 and 78.990* governing the classification, qualification, examination, appointment, *probation*, promotion, demotion, fine, suspension and other disciplinary action within the said county police force of all personnel of the county police force or forces affected and covered by KRS 78.400 to 78.460 and 78.990, and in addition thereto, to hold such hearings, public and executive, and impose such penalties upon the personnel affected by KRS 78.400 to 78.460 and 78.990.

(2) Fiscal courts affected hereby shall make appropriations of money for the reasonable and necessary expenses of the said board.

Section 2. KRS 78.420 is amended to read as follows:

(1) Upon appointment and qualification of the members of the board, they shall meet within the thirty (30) days following the creation of the board and elect their chairman and vice-chairman and adopt such rules and regulations and bylaws *not inconsistent with KRS 78.400 to 78.480 and 78.990* [~~as they see fit~~] for

the proper conduct of their offices. In all matters requiring a vote, a majority of the board members present and voting shall determine any question, provided that at least three (3) board members be present to constitute a quorum.

(2) In cases of discipline, four (4) members of the board must be present to constitute a quorum, one (1) of which must be a police officer as defined in subsection (3) of KRS 78.410.

Section 3. KRS 78.425 is amended to read as follows:

(1) All police officers of whatever rank and title, and all employes of every county police force affected by KRS 78.400 to 78.460 and 78.990 are covered by the provisions hereof, *except probationary officers and employes.* All such covered officers and employes of every county police force on active duty or service as of the effective date of a duly made and entered order of the fiscal court of the said county creating a county police merit system and board, shall be deemed fit and qualified to continue their respective duties of employment on or for their respective county police force without examination or further qualification, except and unless the chief of police of any county police force shall within sixty (60) days after the establishment of the board certify to the said board that any officer or employe is physically unfit to continue his or her duties.

(2) Where a merit system is established which covers a county fire department, the provisions of subsection (1) shall apply to the county fire department as they apply to the county police force.

(3) All personnel covered by the provisions (a) of KRS 78.400 to 78.460, or (b) KRS 67.323, 67.325 and this section, or both, *except probationary officers and employes,* shall be deemed to be permanent employes subject to their ability to satisfactorily perform their respective duties and further subject to their good behavior.

(4) Probationary officers and employes shall not be included in the merit system until such time as they satisfactorily complete their initial probationary periods established by the governing merit board. Officers and employes serving promotional probationary periods, however, shall not be deemed excluded from the merit system during such promotional probationary periods.

Section 4. KRS 78.440 is amended to read as follows:

(1) Every county police force merit system board created hereunder shall make, promulgate, and when necessary, amend rules for the qualifications, original appointment, *probation,* promotion, demotion, transfer, layoff, reinstatement, suspension, fine and removal of the officers and employes covered by KRS 78.400 to 78.460. *No rule or regulation made, promulgated, or amended by any county police force merit system board shall be inconsistent with the express provisions of this chapter.* The board shall publish its rules and any amendments thereto by supplying a certified copy thereof to the county judge/executive, the fiscal court and the chief, and by posting a copy thereof conspicuously in the office or place where the headquarters of the county police is maintained. Said rules and amendments thereto shall be published in the manner prescribed within three (3) days after the adoption thereof.

(2) The rules in addition to other matters shall specifically provide for and cover the following:

(a) 1. Physical, mental, educational, citizenship and age requirements for new employes and officers.

2. Physical, mental, educational, citizenship and age requirements for new employes and officers and seniority requirements for promotion from lower to higher rank or classification.

3. A grade A patrolman must have three (3) years of service as a grade A patrolman before he may be eligible for the promotion to the rank of sergeant. If there are fewer than fifty (50) police officers on the police force, the merit board may waive this service requirement.

(b) 1. Open competitive written, oral and physical tests to determine the relative fitness of all candidates and examinations for original appointment and for promotion.

2. Public notices of examinations provided in subparagraph 1 of paragraph (b) and subparagraph 2 of paragraph (a) of this subsection.

(c) Temporary appointments in case of emergency.

(d) Organization and meetings of the board.

(e) Procedure and conduct of public hearings.

(3) No county police force merit system board shall adopt a rule requiring the retirement of officers or employes prior to the first day of the month following the officer or employe's fifty-eighth (58th) birthday. This subsection shall not prohibit retirement prior to age fifty-eight (58) on a voluntary basis.

(4) The board shall employ a chief examiner who shall be professionally qualified and experienced in the field of testing and who shall formulate, give, grade and administer all written tests as required by the board. Said chief examiner shall report to the board the results of all tests given by him and he shall be solely responsible to the board. The chief examiner shall select a panel of four (4) members to conduct an oral examination of the applicants for promotion. The panel shall consist of two (2) persons of a supervisory capacity from the same classified service as the applicant and two (2) persons from an outside agency or agencies in the same field. The chief examiner shall compile the grades of all applicants *in strict compliance with procedures and percentages* [~~based upon the percentages~~] as set out below and shall deliver, in a sealed envelope, the scores of all applicants for promotion to the chairman of the board. The chief examiner shall not reveal to anyone the results of said tests other than in the manner set forth herein. If there are fewer than fifty (50) applicants for testing, the merit board may waive the requirements of this subsection and substitute other appropriate testing methods as determined by the board, *but no such testing method or the grading thereof shall depart from or be inconsistent with the procedures and percentages set out below which shall be strictly followed in determining an applicant's eligibility for promotion.*

(5) Physical fitness for promotion is presumed unless certified to the contrary by the chief of police who shall supply the board with medical records of the disability.

(6) At least ninety (90) days' notice shall be given before the promotional examination is conducted.

(7) The grading of promotional tests shall be as follows: *sixty (60)* [~~fifty-five (55)~~] percent for written examination; thirty (30) per cent for oral examination; one (1) per cent for each year in seniority in grade, not to exceed *ten (10)* [~~fifteen (15)~~] percent. *Seniority points shall be awarded for each year of service after five (5) full years of service. The results of the written and oral examinations shall be added to the seniority points available to each applicant in determining the applicant's final evaluated rating.*

HB 900. AN ACT relating to counties.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix the number of deputies and assistants, and the compensation thereof, and the maximum amount that the officer may expend each year for expenses of his office.

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall

be fixed by the fiscal court not later than the first Monday in *February* [~~May~~] in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in *February* [~~May~~] of any successive year upon the written request of the officer. The fiscal court may, upon the written request of the officer, increase or decrease the number of permanent or temporary deputies and assistants authorized to the office at any time after the beginning of the term of the officer. The fiscal court shall fix the compensation of deputies and assistants hired during the term of the officer at the time of their employment, and their compensation may be reviewed and adjusted at the same time as that of other deputies and assistants, *upon the written request of the officer. For the purposes of this section, assistant shall mean employes exercising executive or administrative authority.* On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office.

Section 2. KRS 67.710 is amended to read as follows:

The county judge/executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its fiscal court by law, or by agreement with any municipality or other subdivision of government, and such additional powers as are granted by the fiscal court. The county judge/executive shall be responsible for the proper administration of the affairs of the county placed in his charge. His responsibilities shall include, but are not limited to, the following:

(1) Provide for the execution of all ordinances and resolutions of the fiscal court, execute all contracts entered into by the fiscal court, and provide for the execution of all laws by the state subject to enforcement by him or by officers who are under his direction and supervision;

(2) Prepare and submit to the fiscal court for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review such code and suggest revisions periodically or at the request of the fiscal court;

(3) Furnish the fiscal court with information concerning the operations of the county departments, boards, or commissions, necessary for the fiscal court to exercise its powers or as requested by the fiscal court;

(4) Require all officials, elected or appointed, whose offices utilize county funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the county to make a detailed annual financial report to the fiscal court concerning the business and condition of their office, department, board, commission, or special districts;

(5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the fiscal court an annual budget and administer the provisions of the budget when adopted by the fiscal court;

(6) Keep the fiscal court fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the fiscal court or as he deems necessary;

(7) Exercise [~~with the approval of the fiscal court~~] the authority to appoint, supervise, suspend, and remove county personnel (unless otherwise provided by state law). *Personnel appointed by the county judge/executive shall be reviewed by the fiscal court and may be rejected for good cause shown*; and

(8) With the approval of the fiscal court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create. The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter. In counties containing a city of the first class, the county judge/executive shall appoint to a board or commission an equal number of members from each district, as defined in KRS 67.045, into which the authority of the board or commission extends. If there are more districts than members of a particular board or commission, he shall not appoint more than one (1) member from any district. If there are more members of a particular board or commission than there are districts, he shall equalize appointments to the extent possible. He shall attempt to balance appointments among all such boards and commissions in order to equalize representation of all districts over the entire range of such boards and commissions.

The Committee Amendment No. 1 to **HB 900** is as follows:

Amend printed copy of **HB 900** on page 2, line 8, by deleting "*February*" and by substituting therefor "*January*"; and

On page 2, line 13, by deleting "*February*" and by substituting therefor "*January*"; and

On page 2, line 24, by deleting "*section*" and by substituting therefor "*subsection*".

SB 249, AN ACT relating to county clerks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 231.050 is amended to read as follows:

At the time the application is filed, the applicant shall deposit *twenty dollars ($20.00)* [~~ten dollars ($10)~~] with the county clerk which shall be used by the clerk to defray the cost of the notices required by KRS 231.060 to be published in a newspaper, to pay the clerk's cost for the docketing of the application on the order book of the county judge/executive and for recording such orders of the county judge/executive as may be entered therein. *Fifteen dollars ($15.00)* [~~Seven dollars and fifty cents ($7.50)~~] of the deposit shall be used for advertising and *five dollars ($5.00)* [~~two dollars and fifty cents ($2.50)~~] shall be paid to the clerk as his fee.

The Committee Amendment No. 1 to **SB 249** is as follows:

Amend printed copy of GA Copy of **SB 249** on page 1, line 14, by adding thereafter the following:

"Section 2. KRS 64.530 is amended to read as follows:

(1) Except as provided in subsections (5) and (6) of this section, the fiscal court of each county shall fix the compensation of every county officer and employe except the officers named in KRS 64.535 and the county attorney and jailer. The fiscal court may provide a salary for the county attorney.

(2) For the purposes of this section, justices of the peace and constables in all counties shall be deemed to be county officers and deputies or assistants of county officers shall be deemed to be county employes, but employes of county boards or commissions which are now authorized by law to fix the compensation of their employes shall not be deemed to be county employes for the purposes of this section.

(3) In the case of officers compensated from fees, or partly from fees and partly by salary, the fiscal court shall fix the maximum compensation that any officer except the officers named in KRS 64.535 may receive from both sources. The fiscal court may also fix [~~the number of deputies and assistants, and the~~

~~compensation thereof, and~~] the maximum amount that the officer may expend each year for expenses of his office. *The fiscal court shall fix annually the maximum amount, including fringe benefits, which the officer may expend for deputies and assistants, and allow the officer to determine the number to be hired and the individual compensation of each deputy and assistant.*

(4) In the case of county officers elected by popular vote and the county attorney, in the event the fiscal court provides him a salary, the monthly compensation of the officer and of his deputies and assistants shall be fixed by the fiscal court, *consistent with the provisions of subsection (3) of this section,* not later than the first Monday in May in the year in which the officers are elected, and the compensation of the officer shall not be changed during the term but the compensation of his deputies or assistants may be reviewed and adjusted by the fiscal court not later than the first Monday in May of any successive year upon the written request of the officer. [~~The fiscal court may, upon the written request of the officer, increase or decrease the number of permanent or temporary deputies and assistants authorized to the office at any time after the beginning of the term of the officer. The fiscal court shall fix the compensation of deputies and assistants hired during the term of the officer at the time of their employment, and their compensation may be reviewed and adjusted at the same time as that of other deputies and assistants.~~] On or before August 1, 1966, the fiscal court shall fix the salary provided herein for the county attorneys for the term commencing in January, 1966, notwithstanding any other provisions of this section which may be inconsistent herewith.

(5) Nothing in this section shall apply to property valuation administrators or their deputies, assistants and expenses, in any county, or to the circuit court clerk, county clerk, sheriff, jailer, and their deputies, assistants and expenses, in counties having a population of 75,000 or more.

(6) Justices of the peace serving on a fiscal court in any county, and county commissioners serving on a fiscal court in any county other than one containing a city of the first, second, third or fourth class, shall be paid for their services, out of the county treasury, not to exceed the maximum compensation allowable under KRS 64.527. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation shall be effective as to any member of a fiscal court during his term of office. The compensation of county commissioners serving on fiscal courts in counties containing a city of the first class shall not exceed nine thousand six hundred dollars ($9,600) per year, in counties containing cities of the second class it shall not exceed nine thousand dollars ($9,000) per year and in counties containing cities of the third or fourth class it shall not exceed twenty percent (20%) more than the annual compensation paid in the county for the calendar year immediately preceding 1974, and all of said annual salaries shall be payable monthly. Justices of the peace and county commissioners shall not receive any compensation for their services on the fiscal court, other than as provided by this section; provided, however, justices of the peace and county commissioners may receive no more than three thousand six hundred dollars ($3,600) annually or three hundred dollars ($300) per month as an expense allowance for serving on committees of the fiscal court. The fiscal court shall fix the amount to be received within the above limit, but no change of compensation except as provided in KRS 64.285 shall be effective as to any member of a fiscal court during his term of office."

SCR 53, A CONCURRENT RESOLUTION directing the creation of a special commission for the study of the consolidation of counties.

WHEREAS, the Commonwealth of Kentucky currently has one hundred twenty (120) counties, ranging in area from 99 square miles to 785 square miles, and in population, according to the 1980 federal census, from 2,265 inhabitants to 685,004 inhabitants; and

WHEREAS, the Commonwealth with a total of 39,669 square miles ranks thirty-seventh out of the fifty States of the Union in area but is third among the fifty States in the number of counties, following the States of Texas and Georgia, with 254 and 159 counties, respectively; and

WHEREAS, as long ago as at the time of the 1890 debates of the constitutional convention which produced the current Constitution of the Commonwealth, it was recognized that "the trend of public opinion in Kentucky is towards a reduction of this number of counties, if it were possible." 1 *Official Report of the Proceedings and Debates of the 1890 Kentucky Constitutional Convention* 329, and that "the Committee on Municipalities was unanimously of the opinion that 400 square miles should be the smallest area entitled to a separate organization." *id.*; and

WHEREAS, the advances in transportation technology and in the public road system of the Commonwealth over the past ninety-eighty years have further weakened the justification for the presence of so many counties in that with these advances the difficulty of travelling to county seats has been greatly ameliorated; and

WHEREAS, although extensive legislation has existed for the consolidation of counties since 1942, which legislation is codified at Sections 67.190 to 67.310 of the Kentucky Revised Statutes, no consolidation of counties has resulted from utilization of these statutes; and

WHEREAS, considerable sentiment has been expressed from numerous segments of the people of the Commonwealth for further exploration of this subject in light of the existing revenue constraints facing county governments throughout the Commonwealth and the possibility of savings through a decrease in the number of counties and the duplication of offices and services;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Legislative Research Commission is directed to create a Special Commission for the Study of the Consolidation of Counties to review the state constitutional and statutory provisions pertaining to consolidation of counties and to carry out a study on the desirability, feasibility, and methodology for consolidation of counties within the Commonwealth.

Section 2. During the 1988-1990 interim, the Special Commission is directed to consider the following:

(1) An examination of the historical development of the existing counties in this Commonwealth, with particular emphasis on the sources of their territory and their geographic and economic similarities and differences;

(2) A review of consolidation of counties in other States of the Union and any statutory enactments to encourage the process;

(3) The determination of a recommendation on an optimum number of counties for the Commonwealth with suggestions, if the Special Commission can reach a consensus, on which existing counties should be encouraged to consolidate;

(4) A thorough study of existing legislation on the consolidation of counties to see if these statutes are adequate, and if it is determined that they are not, to make definite recommendations for their improvement;

(5) The development of recommendations for new legislation to promote the utilization of statutorily-created methods of voluntary consolidation of counties;

(6) An examination of any constitutional basis for consolidation of counties by action of the General Assembly with a consideration of the effects and benefits thereof, in the event that voluntary consolidation cannot be effected: and

(7) Such other matters as the Special Commission may determine warrant treatment as it deals with the above specified items.

Section 3. The Special Commission shall consist of the following twenty-three (23) members:

(1) The co-chairmen of the interim joint committee having jurisdiction over counties;

(2) The commissioner of the department of local government, or his designee;

(3) The executive director of the Kentucky Association of Counties;

(4) A representative from and designated by the Kentucky League of Women Voters;

(5) The following who will be appointed by the co-chairmen of the Legislative Research Commission:

(a) Two members from the majority party of the Senate;

(b) Two members from the majority party of the House of Representatives;

(c) Two (2) faculty members from the departments of political science or sociology of institutions of higher education in this Commonwealth;

(d) A county judge/executive, a county sheriff, and a county clerk, each of whom shall be from a different county, and all of who shall be from counties whose area is less than four hundred (400) square miles and whose population, according to the 1980 census, was less than 15,000; and

(e) One (1) citizen from each of the seven (7) congressional districts in this Commonwealth, no more than four (4) of whom shall be of the same political party; and

(6) A member from the minority party of each chamber of the General Assembly appointed by the respective minority floor leader of each chamber.

Section 4. The chairman or co-chairmen of the Special Commission shall be designated by the co-chairmen of the Legislative Research Commission.

Section 5. The members of the Special Commission shall serve for a period of two (2) years or until the Special Commission's final report be filed with the Legislative Research Commission, whichever event first occurs. Vacancies in the Special Commission shall be filled by appointment in the same manner as the original appointment.

Section 6. The members of the Special Commission shall serve without pay, but shall receive their reasonable and necessary expenses in connection with the performance of their duties.

Section 7. The full Special Commission shall meet at least four times annually and at such other times as it deems necessary. The Special Commission may hold public meetings from time to time on matters within its purview.

Section 8. If it deems it to be appropriate, the Special Commission may organize itself into smaller task groups related to the subject matter under consideration.

Section 9. The Special Commission shall provide a comprehensive report with recommendations for constitutional amendment proposals and statute revision to the Legislative Research Commission by no later than September 1, 1989.

Section 10. Staff services to be utilized in completing this study are estimated to cost $50,000. These staff services shall be provided from the regular budget of the Legislative Research Commission and are subject to the limitations and other research responsibilities of the Commission.

The Committee on Counties and Special Districts reported **SB 271** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 271, AN ACT relating to county and Commonwealth's attorneys.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.750 is amended to read as follows:

(1) Each Commonwealth's attorney and each county attorney shall submit a proposed budget for his office to the prosecutors advisory council to be included in the total budget of the unified prosecutorial system and submitted as part of the budget of the office of the attorney general in accordance with KRS Chapter 48. Nothing contained herein shall be construed as limiting, restricting, or terminating the authority of local governmental units, including cities, counties, and urban counties, to provide financial support for the office of any prosecutor.

(2) Office expenses incurred by the Commonwealth's attorney in the performance of his duties, as required by the Kentucky Revised Statutes, shall be paid by the Commonwealth.

(3) Office expenses incurred by the county attorney in the performance of his duties as criminal prosecutor shall be paid by the Commonwealth.

(4) Office expenses incurred by the county attorney in the performance of his duties as legal adviser to the county shall be paid by the fiscal court or by the urban-county council as required by the Kentucky Revised Statutes.

(5) The prosecutors advisory council, under such terms and conditions as it deems appropriate, may purchase or authorize the purchase of liability insurance on behalf of county attorneys, Commonwealth's attorneys, and their employes to protect them from malpractice or otherwise, arising in the course or scope of their official duties. The purchase of liability insurance for or by county attorneys, Commonwealth's attorneys, and their employes shall not constitute a waiver of any immunity or defense the insured may now or in the future assert under state or federal law, regulation or rule.

The Committee on Education reported **HB 76**, **HB 678** with Committee Amendment attached thereto, **HB 792**, **HB 812** with Committee Amendment attached thereto, **HB 872** with Committee Substitute attached thereto, and **HB 1008** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 76. AN ACT relating to the Kentucky higher education assistance authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.740 is amended to read as follows:

As used in KRS 164.740 to 164.785, the terms listed below shall have the following meanings:

(1) "Authority" means the Kentucky higher education assistance authority.

(2) "Board" means the board of directors of the Kentucky higher education assistance authority.

(3) "Business school" means any business school which is accredited by the association of independent colleges and schools, *the* commission for business schools, [~~(~~]or any successor[~~)~~] and which provides a program of study leading to the granting of a post secondary degree or diploma.

(4) "College" means any institution of higher learning which is accredited by the southern association of colleges and schools, *the* commission on colleges, [~~(~~]or any successor[~~)~~] and which provides a program of study leading to the granting of a post secondary degree or diploma.

(5) [~~"Secretary" means the United States Secretary of Education.~~

~~(6)~~] "Eligible institution" means any educational institution or class of institutions designated pursuant to the federal act or this chapter as eligible to participate in authority administered programs, provided that no right of participation shall be deemed vested herein in any institution, including, but not by way of limitation, any college, school of nursing, vocational school, or business school.

(6)[~~(7)~~] "Eligible lender" means any entity described as eligible pursuant to the federal act to make or originate insured student loans, provided that no right of participation shall be deemed vested hereby in any lender.

(7)[~~(8)~~] "Eligible student" means any student enrolled or accepted for enrollment at a participating institution, meeting the criteria established by the federal act and this chapter for the various authority administered programs.

(8) "Endorser" means a person who signs a student loan promissory note as an accommodation party,

in the manner of KRS 355.3-415, and is secondarily liable for payment on such note.

(9) "Federal act" means the higher education act of 1965, [~~(~~]Public Law 89-329[~~)~~], as amended.

(10) "Grant" means a gift of money, tuition discount, waiver of tuition and fees or other monetary award that requires neither *employment nor* repayment, except under conditions prescribed by the board, [~~nor employment~~] and is based on demonstrated financial need and such other terms and conditions as the board may prescribe.

(11) "Honorary scholarship" means a certificate of merit or achievement or other appropriate document which may be issued by the board to students in recognition of superior academic ability or achievement or a special talent.

(12) "Insured student loan" means an obligation representing advances of money to an eligible *borrower who is qualified under the federal act,* [~~student, who qualifies under the federal act, and is (a) a resident of the Commonwealth or (b) is either enrolled or accepted for enrollment at a participating institution within the Commonwealth, and is not planning to enroll or is not enrolled in a program of study leading to a certificate, diploma, or degree in theology, divinity or religious education,~~] evidenced by one (1) or more promissory notes, on which the payment of principal and interest is insured as evidenced by a loan guarantee issued by the authority and reinsured by the secretary to the extent of not less than eighty percent (80%) of the principal amount thereof under the federal act.

(13) "Loan" means an advance of money, to be used exclusively for payment of educational expenses, evidenced by a promissory note or similar instrument requiring repayment under specified conditions.

(14)[~~(13)~~] "Loan guarantee" means the certificate, document or endorsement issued by the authority as evidence of insurance [~~by the authority~~] of a loan as to both principal and interest and of reinsurance by the secretary to the extent of not less than eighty percent (80%) of the principal amount thereof under the federal act.

(15)[~~(14)~~] "Participating institution" means any eligible institution, to the extent that it offers an eligible program of study, having a contract in force with the authority, if required by the authority, on such terms as the authority may deem necessary or appropriate to the administration of its programs.

(16)[~~(15)~~] "Participating lender" means any eligible lender, including the authority and the Kentucky higher education loan corporation, which has in force a contract with the authority providing for loan guarantee to be issued by the authority under the federal act and this chapter.

(17) "Recognition award" means an advance of money to or on behalf of a student in recognition of superior academic ability, achievement or special talent.

(18)[~~(16)~~] "Scholarship" means a gift of money *to provide an incentive for fulfillment of a particular public purpose which may be* based on financial need and superior academic ability or achievement or a special talent and such other terms and conditions as the board may prescribe.

(19)[~~(17)~~] "School of nursing" means any training program in the field of nursing, including one regarding nurse aides, which is accredited by the Kentucky board of nursing education and nurse registration [~~(~~]or any successor[~~)~~] and which provides a program of study leading to the granting of a post secondary degree or diploma.

(20) "Secretary" means the United States secretary of education.

(21)[~~(18)~~] "Vocational school" means any public vocational school which is accredited by the Kentucky state board *of* [~~for occupational~~] education [~~(or any successor)~~] and which provides a course of study leading to the granting of a post secondary degree or diploma or a vocational technical school accredited by the national association of trade and technical schools [~~(~~]or any successor[~~)~~], which provides a program of study leading to the granting of a post secondary degree, diploma or certificate.

(22)[~~(19)~~] "Work study" means an award of money disbursed by the board at specified intervals to students,

or as reimbursement to employers of students, who provide needed services for a specified number of hours in a capacity approved by the board.

Section 2. KRS 164.766 is amended to read as follows:

The authority is authorized, but not by way of limitation, to enter into such agreements as may be necessary under the federal act to provide *programs* [~~a program~~] of *supplemental loans for students, parent loans for undergraduate student loans, and consolidation loans* [~~auxiliary loans to assist students~~] in accordance with *Section 428A*, Section 428B, *and Section 428C* of the federal Higher Education Act of 1965 as amended and this chapter. *When* [~~Whenever~~] necessary to carry out the provisions of the federal Higher Education Act of 1965 and this chapter, the terms "student," "student borrower," and "qualified student" shall include a parent borrower.

Section 3. KRS 164A.065 is amended to read as follows:

The corporation is hereby authorized to exercise all powers granted by this chapter in furtherance of programs of *supplemental loans for students, parent loans for undergraduate student loans, and consolidation loans* [~~auxiliary loans to assist students~~] pursuant to *Section 428A*, Section 428B, *and Section 428C* of the Federal Higher Education Act of 1965, as amended, and health education assistance loans pursuant to the Health Professions Educational Assistance Act of 1976, *Public Law* [~~(P.L.~~] 94-484[~~)~~], as amended. Any reference in this chapter, without limitation, to student loan or insured student loan shall be deemed to include a loan to parents authorized by Section 428B of the Federal Higher Education Act of 1965, as amended, and health education assistance loan.

HB 678, AN ACT relating to education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.290 is amended to read as follows:

(1) Each board of education shall have general control and management of the public schools in its district and may establish such schools and provide for such courses and other services as it deems necessary for the promotion of education and the general health and welfare of pupils, consistent with the rules and regulations of the state board for elementary and secondary education. Each board shall have control and management of all school funds and all public school property of its district and may use such funds and property to promote public education in such ways as it deems necessary and proper. Each board shall exercise generally all powers in the administration of its public school system, appoint such officers, agents and employes as it deems necessary and proper, prescribe their duties, and fix their compensation and terms of office.

(2) Each board shall make and adopt, and may amend or repeal, rules, regulations and bylaws for its meetings and proceedings for the government, regulation and management of the public schools and school property of the district, for the transaction of its business, and for the qualification and employment of teachers and the conduct of pupils. The rules, regulations, and bylaws heretofore made by any governing body of a school district, or hereafter made by a board of education, shall be consistent with the general school laws of the state and shall be binding on the board of education and parties dealing with it until amended or repealed by an affirmative vote of a majority of the members of the board. The rules, regulations and bylaws shall be spread on the minutes of the board and be open to the public.

(3) A local board of education may adopt a policy permitting a student's grade in a class to be lowered for exceeding an established number of unexcused absences. The policy shall include procedures for the following: notifying students and parents of the policy; notifying the student and his parents when the student is approaching the number of unexcused absences causing the lowering of a grade; and noting on the student's transcript that a course grade has been lowered due to excessive unexcused absences when the action has been taken.

Section 2. KRS 160.295 is amended to read as follows:

(1) The board of education of each public school district in the commonwealth may adopt and promulgate a code of student rights and responsibilities for secondary schools from recommendations of a committee composed of students, faculty, parents, and school district administrative personnel.

(2) Such committee shall consist of two (2) students, two (2) parents of students, two (2) faculty members, two (2) representatives from administrative personnel of the district, and one (1) member of the local school board.

(3) The student, and faculty members of such committee shall be elected by their peers in the local school district, the administrative personnel shall be appointed by the school district superintendent, and the parents selected by the faculty and student body. Members of such committee shall serve for a term of one (1) year and may be re-elected or re-appointed in following years. Initial composition of the elected members of such committee shall be by the following:

(a) The district superintendent shall notify each school within the district, each school principal or head teacher, the students of the district, and the parents of students within the district as to the method for receiving nominations for membership on the committee and of the methods by which the election of members shall take place. Such notification shall take place on or before the first day of school for each school term.

(b) Nominations for the student, faculty, and parent members of the committee shall be received in writing by the district superintendent within thirty (30) days following the commencement of each school term.

(c) The election of student, faculty, and parent members of the committee shall be held within fourteen (14) days following the closing of nominations under the supervision of the district superintendent.

(d) The initial meeting of the elected and appointed members shall be no later than fourteen (14) days following the election.

(4) Each committee member shall be entitled to a single vote and any code of student rights and responsibilities adopted by a majority of the committee membership shall be submitted to the district board of education which may cause such code, in whole or in part, to be implemented in the public schools of the district.

(5) All meetings of the committee shall be open to the public and the committee shall hold at least one (1) public hearing on the proposed code before it is adopted and submitted to the district board of education for implementation.

(6) The code of student rights and responsibilities adopted by the committee may define rights and responsibilities regarding, but not limited to, the following:

(a) Right of expression, including, but not limited to, appearance, assembly, association, and circulation of petitions and literature;

(b) Right to participate in decision-making procedures directly affecting students;

(c) Right to procedural due process concerning major disciplinary action, as defined by the code;

(d) Right to receive academic grades based [~~only~~] upon academic performance *and attendance*;

(e) Right to freedom from abuse and threat of abuse by members of school faculties and administration personnel; and

(f) Right of access by a student to his or her own records and guarantee of the confidentiality of a student's academic records outside of the school system, except upon written authorization of the student or his or her parents or guardians.

(7) Students shall refrain from activity which materially or substantially disrupts the educational process or presents a clear and present danger to the health and safety of persons or property, or infringes on the rights of others.

The Committee Amendment No. 1 to **HB 678** is as follows:

Amend printed copy of **HB 678** on page 2, line 22, by adding after the "." the following:

"Days of suspension imposed by the board for disciplinary reasons shall not be counted as unexcused absences under a policy adopted pursuant to this subsection."

HB 792, AN ACT relating to compulsory attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.010 is amended to read as follows:

(1) Except as provided in KRS 159.030, each parent, guardian or other person residing in the state and having in custody or charge any child *who has entered kindergarten or any child* between the ages of six (6) and sixteen (16) shall send the child to a regular public day school for the full term that the public school of the district in which the child resides is in session, or to the public school that the board of education of the district makes provision for the child to attend. A child's age is between six (6) and sixteen (16) when the child has reached his sixth birthday and has not passed his sixteenth birthday.

(2) An unmarried child between the ages of sixteen (16) and eighteen (18) who wishes to terminate his public or non-public education prior to graduating from high school shall do so only after a conference with the principal or his designee, and the principal shall request a conference with the parent, guardian or other custodian. Written notification of withdrawal must be received from his parent, guardian or other person residing in the state and having custody or charge of him sixty (60) days prior to withdrawal. The written notification shall be dated and the signature witnessed by the principal of the school or his designee, where the child is in attendance. During the sixty (60) day period the parent(s) and child shall be required to attend a one (1) hour counseling session where they shall view a media presentation prepared by the department of education which shows economic statistics and other information on potential problems of non-graduates.

(3) A child's age is between sixteen (16) and eighteen (18) when the child has reached his sixteenth birthday and has not passed his eighteenth birthday. Written permission for withdrawal shall not be required after the child's eighteenth birthday. Every child actually resident in this state is subject to the laws relating to compulsory attendance, and neither he nor the person in charge of him shall be excused from the operation of those laws or the penalties under them on the ground that the child's residence is seasonable or that his parent is a resident of another state.

Section 2. KRS 159.020 is amended to read as follows:

Any parent, guardian or other person having in custody or charge any child *who has entered kindergarten or any child* between the ages of six (6) and sixteen (16) who removes the child from a school district during the school term shall enroll the child in a regular public day school in the district to which the child is removed, and the child shall attend school in the district to which he is removed for the full term provided by that district.

HB 812, AN ACT relating to school employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

Public school employes for whom certification is not required as a basis of employment and who have successfully served a six (6) month probationary period, exclusive of paid and unpaid leave, as evidenced by a written evaluation conducted under board policies, shall be required to enter into a written contract of employment with the board of education. The contract may be terminated by the board only for insubordination, immoral conduct unbecoming a school employe, physical or mental disability, inefficiency, incompetency, neglect of duty, abandonment of position or failure to maintain licensing or other standards required by the state or federal governments after the employe has been given written notice of the charges for termination and received a due process hearing before the board no less than twenty (20) days after service of the charges. Charges at the hearing shall be supported by documents prepared by appropriate supervisory personnel and the employe shall have benefit of the board's authority for the purpose of obtaining documents, physical evidence and witnesses in preparation for the hearing and for evidence at the hearing. The employe may be represented by an attorney *and, if requested, the board shall furnish evidence and testimony of witnesses, to be used at the hearing in support of the charges, to the employe or his attorney. The hearing before the board may be public or private, at the employe's option. The board may, after hearing the evidence, dismiss some or all of the charges, issue a sanction less severe than termination of employment or terminate the contract of employment. The board shall prepare a stenographic record of the hearing and shall issue written findings, conclusions and a decision within five (5) days after the close of the hearing. The employe may appeal from board action by filing a complaint, within thirty (30) days after receiving the board's decision, in the circuit court of the county where the school district is located. The complaint shall be an original action and either party may introduce the transcript of the hearing before the board of education, or portions thereof as evidence and in such event the board of education shall prepare a copy of the transcript at no cost to the employe. Either party may appeal the judgment of the circuit court to the court of appeals as provided by law.*

The Committee Amendment No. 1 to **HB 812** is as follows:

Amend printed copy of **HB 812** on page 1, line 5, delete "*six (6)*" and insert "*twelve (12)*" in lieu thereof;

And on page 2, after line 24, add the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) A superintendent may lay off a classified employe whenever the superintendent deems it necessary by reason of shortage of funds or work, abolishment of a position, changes required by state law or state board of education regulations, or other material change in duties or organization.

(2) A classified employe who is laid off with more than twelve (12) months employment in the district may appeal pursuant to Section 1 of this Act.

(3) Seniority, performance appraisals, qualifications, and types of appointment shall be considered in determining the order of layoff. If two (2) or more classified employes with more than twelve (12) months employment in the district have the same qualifications, the employe with the least seniority shall be laid off first. Probationary employes shall be laid off before employes with more than twelve (12) months employment in the district."

HB 872, AN ACT relating to teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to 1. violations of lawful rules and regulations established by the local board of education for the operation of schools, and 2. refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) (a) Charges on the above causes shall be supported by written records of teacher performance by the superintendent, principal, or other supervisory personnel of the board.

(b) Marriage of a teacher shall not be cause for termination of the contract.

(3) No contract shall be terminated except upon recommendation of the superintendent and unless the teacher is furnished with a written statement, specifying in detail the charge or charges against said teacher, signed by the chairman and secretary of the board of education and naming a date and place at which the teacher may appear before the board of education and answer said charge or charges. Said date for the hearing shall not be less than twenty (20) nor more than thirty (30) days after the service of such charges upon the teacher. The teacher shall within ten (10) days after the receipt of the written statement of such charges notify the board of education of his intention to appear and answer such charges, and upon failure of the teacher to give such notice, the board of education may dismiss the teacher, *if a quorum is present,* by a majority vote *of the members present* and such dismissal shall be final.

(4) Upon receipt of the teacher's notice of intention to appear and answer such charges, the board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issue shall be heard at the time and place set and the hearing shall be public or private at the discretion of the teacher. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath or affirmation before an officer of the board of education. The board of education shall provide for a stenographic report of the proceedings and furnish the teacher with a copy. Upon completion of both sides of the case, *if a quorum is present,* the board of education may by a majority vote *of the members present* dismiss the teacher or may defer its action for not more than five (5) days.

(5) The board of education may, on recommendation of the superintendent, suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrants such action. If after the hearing the decision of the board is against termination of the contract, the suspended teacher shall be paid his full salary for the period of such suspension.

(6) The teacher shall have a right to make an appeal both as to law and as to fact to the circuit court. If said appeal is not made within thirty (30) days after dismissal, then the decision of the board of education shall be final. Such appeal shall be an original action in said court and shall be commenced by the filing of a petition against such board of education, in which petition the facts shall be alleged upon which the teacher relies for a reversal or modification of the order of termination of contract. Upon service or waiver of summons in said appeal, such board of education shall forthwith transmit to the clerk of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing before such board, whereupon the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition as may be proper under the provisions of KRS 161.720 to 161.810 and in accordance with the evidence adduced at the hearing. Either the teacher or the board of education may appeal from the action of the court to the Court of Appeals.

(7) The board of education may suspend a teacher without pay for the length of time the board determines to be warranted by the seriousness of the charge. The decision to suspend is at the discretion of the board upon completion of a hearing on the charges. A vote on suspension shall not be taken unless a quorum is present, and the decision to suspend shall require a majority vote of the members present. The decision of the board shall be final. Upon completion of the suspension period, the teacher shall be reinstated with full benefits.

The Committee Substitute to **HB 872** is as follows:

HB 872, AN ACT relating to teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.790 is amended to read as follows:

(1) The contract of a teacher shall remain in force during good behavior and efficient and competent service by the teacher and shall not be terminated except for any of the following causes:

(a) Insubordination, including but not limited to 1. violations of lawful rules and regulations established by the local board of education for the operation of schools, and 2. refusal to recognize or obey the authority of the superintendent, principal, or any other supervisory personnel of the board in the performance of their duties;

(b) Immoral character or conduct unbecoming a teacher;

(c) Physical or mental disability;

(d) Inefficiency, incompetency, or neglect of duty, when a written statement identifying the problems or difficulties has been furnished the teacher or teachers involved.

(2) (a) Charges on the above causes shall be supported by written records of teacher performance by the superintendent, principal, or other supervisory personnel of the board.

(b) Marriage of a teacher shall not be cause for termination of the contract.

(3) No contract shall be terminated except upon recommendation of the superintendent and unless the teacher is furnished with a written statement, specifying in detail the charge or charges against said teacher, signed by the chairman and secretary of the board of education and naming a date and place at which the teacher may appear before the board of education and answer said charge or charges. Said date for the hearing shall not be less than twenty (20) nor more than thirty (30) days after the service of such charges upon the teacher. The teacher shall within ten (10) days after the receipt of the written statement of such charges notify the board of education of his intention to appear and answer such charges, and upon failure of the teacher to give such notice, the board of education may dismiss the teacher by a majority vote and such dismissal shall be final.

(4) Upon receipt of the teacher's notice of intention to appear and answer such charges, the board of education shall issue such subpoenas as shall be necessary for the determination of the issues involved. The issue shall be heard at the time and place set and the hearing shall be public or private at the discretion of the teacher. Both parties may be represented by counsel and may require the presence of witnesses upon subpoena. Each witness shall be required to take oath or affirmation before an officer of the board of education. The board of education shall provide for a stenographic report of the proceedings and furnish the teacher with a copy. Upon completion of both sides of the case the board of education may by a majority vote dismiss the teacher or may defer its action for not more than five (5) days.

(5) The board of education may, on recommendation of the superintendent, suspend a teacher pending final action to terminate his contract if, in its judgment, the character of the charges warrants such action. If after the hearing the decision of the board is against termination of the contract, the suspended teacher shall be paid his full salary for the period of such suspension.

(6) The teacher shall have a right to make an appeal both as to law and as to fact to the circuit court. If said appeal is not made within thirty (30) days after dismissal, then the decision of the board of education shall be final. Such appeal shall be an original action in said court and shall be commenced by the filing of a petition against such board of education, in which petition the facts shall be alleged upon which the teacher relies for a reversal or modification of the order of termination of contract. Upon service or waiver of summons in said appeal, such board of education shall forthwith transmit to the clerk of said court for filing a transcript of the original notice of charges and a transcript of all evidence adduced at the hearing before such board, whereupon the cause shall be at issue without further pleading and shall be advanced and heard without delay. The court shall examine the transcript and record of the hearing before the board of education and shall hold such additional hearings as it may deem advisable, at which it may consider other evidence in addition to such transcript and record. Upon final hearing, the court shall grant or deny the relief prayed for in the petition as may be proper under the provisions of KRS 161.720 to 161.810 and in accordance with the evidence adduced at the hearing. Either the teacher or the board of education may appeal from the action of the court to the Court of Appeals.

(7) As an alternative to termination of a teacher's contract, the board of education may, by majority vote, impose other sanctions including but not limited to suspension without pay, transfer notwithstanding the provisions of KRS 160.380 and 161.760, public reprimand or private reprimand. The decision to impose sanctions is within the discretion of the board after a hearing on the charges. Upon hearing both sides of the case, the board may impose a sanction or may defer its action for not more than five (5) days. The decision of the board shall be final. Upon completion of a suspension period, the teacher shall be reinstated with full benefits.

HB 1008, AN ACT relating to the power equalization fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.580 is amended to read as follows:

It is the intent of the legislature that funds received by a local district under the power equalization program above the 1985-86 level of support shall be used to supplement the instructional program in the following manner and under the following priorities:

(1) The local board of education shall supplement the one hundred eighty-five (185) day foundation program salary allotment, for each rank and experience set forth in the biennial budget[~~, two hundred twenty-five dollars ($225) for the 1986-87 school year and~~] two hundred seventy-five dollars ($275) [~~for the 1987-88 school year~~]. If a local district is not meeting this requirement then power equalization funds shall be expended to achieve the required one hundred eighty-five (185) day instructional salary;

(2) If the requirements of subsection (1) of this section have been met and if the local district has not met the class size requirements in grades one (1) through six (6) with no exemptions, then power equalization funds shall be expended for this purpose. In the event power equalization funds are available for this purpose, no exemption in class size requirements shall be granted to the district, except as provided in this subsection. All classes shall be within the maximum class sizes by September 15 of each school year. However[~~, through the 1987-88 school year,~~] if a school's enrollment increases after September 15, an exemption for reason of space limitation only, for up to two (2) students above the maximum class size may be granted to a class in which the newly enrolled students are placed. These exemptions shall not be granted for kindergarten classes and for classes with combined grades. These exemptions shall be granted only after the department of education has made an on-site visit and analyzed the district's total classroom space, class sizes and all alternatives and has determined that the district has no means by which to meet the maximum class size requirements with available space. Temporary exemptions shall be granted by the department pending the required on-site visit and analysis. Except as otherwise provided for in this subsection, exemptions shall be subject to the provisions of KRS 157.360(3) and (4) and regulations pertaining thereto. Any district failing to comply with this subsection is subject to loss of the power equalization funds available for this purpose under this section;

(3) If the requirements of subsections (1) and (2) of this section have been met power equalization funds may be expended for the purpose of accommodating the requirement of a duty-free lunch period. The local district may employ non-instructional aides at the ratio of one (1) for every six (6) teachers. If non-instructional teacher aides are employed full-time under this section, they shall be assigned to a specific location within the school and be available for the use of classroom teachers to provide non-instructional assistance when not on lunch room duty;

(4) *If the provisions of subsections (1) to (3) of this section have been met, power equalization funds shall be expended to provide free textbooks for the use of those pupils in grades nine (9) to twelve (12) who are unable to rent or purchase textbooks based upon the federal guidelines of the free and reduced price lunch program.*

(5) If the provisions of subsections (1) *to (4)*[~~, (2), and (3)~~] of this section have been met, power equalization funds shall be expended to staff non-administrative instructional positions beyond those provided by the foundation program at a level equal to the total power equalization funds available under this section divided by the average value of a foundation unit or to staff building-level instructional support positions provided such expenditures meet the criteria established by the state board of education. In meeting this requirement non-federally funded teacher's aides employed before the 1985-86 school year may be counted on the basis of two (2) aides being equal to one (1) teacher. If facilities are not available to accommodate the additional instructional staff, power equalization funds may be used to construct or renovate only classroom space and only on a cash basis;

(5) The state board of education shall promulgate any administrative regulations and require from local districts any documentation necessary to insure compliance with the provisions of this section; and

(6) No local district shall be eligible for state power equalization support above the 1985-86 level of support during any school year in which it is not in compliance with the provisions of this section.

The Committee Amendment No. 1 to **HB 1008** is as follows:

Amend printed copy of **HB 1008** on page 1, by deleting the brackets on lines 11 and 12 and strike through the phrase "two hundred seventy-five dollars ($275)"

On page 1, line 10, by inserting after the word "budget" the following: "*two hundred ninety dollars ($290) for the 1988-89 school year and three hundred fifteen dollars ($315) for the 1989-90 school year*"

On page 3, by deleting all underlined language on lines 11 through 17.

On page 3, by deleting brackets and strikethroughs on lines 17 and 18.

The Committee on Education reported **HB 623** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 623, AN ACT relating to foundation program funds.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.420 is amended to read as follows:

Public school foundation program funds made available to the credit of each district during any year, shall be received, held and expended by the district board, subject to the provisions of law and Kentucky administrative regulations of the state board of education. The following restrictions shall govern the expenditure of funds from the public school foundation program fund:

(1) The teachers' salaries allotment for each district from the public school foundation prfund and from local sources shall be used only for teachers holding properly authorized certificates. The average salary paid any rank of teachers shall be at least equivalent to the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days and no teacher shall be paid less than ninety-three percent (93%) of the public school foundation program fund allotment for that rank for full-time service during the regular school year or the allotment under KRS 157.390(4) shall be reduced by an amount equal to the amount by which the district failed to meet the salary requirements.

(2) The state board of education shall not approve any working budget or salary schedule summary for local boards of education for any school year in which the total amount for one hundred eighty-five (185) days on the salary schedule summary for foundation program instructional salaries is not equal to:

(a) The amount for one hundred eighty-five (185) days on the district's salary schedule summary for foundation program instructional salaries the preceding year; plus

(b) The additional amount for instructional salaries to be received by the district under the biennial budget schedule for a one hundred eighty-five (185) day school term by assuming the same classroom units and rank and experience of teachers in the current year as in the preceding year.

(3) The capital outlay allotment for each district from the public school foundation program fund and from local sources shall be kept in a separate fund and may be used by the district only for capital outlay projects approved by the superintendent of public instruction in accordance with requirements of law, and based on a survey made in accordance with Kentucky administrative regulations of the state board of education. These funds shall be used for the following capital outlay purposes:

(a) For direct payment of construction costs;

(b) For debt service on voted and funding bonds;

(c) For payment or lease-rental agreements under which the board eventually will acquire ownership of a school plant;

(d) For the retirement of any deficit resulting from over-expenditure for capital construction, if such deficit resulted from an emergency declared by the state board of education under KRS 160.550;

(e) As a reserve fund for the above-named purposes, to be carried forward in ensuing budgets.[~~; provided, however,~~]

(4) If any district has a special levy for capital outlay or debt service that is equal to the capital outlay allotment or a proportionate fraction thereof, and spends the proceeds of that levy for the above-named purposes, the superintendent of public instruction under Kentucky administrative regulations of the state board of education, may authorize the district to use all or a proportionate fraction of its capital outlay allotment for current expenses. *However, a district which uses capital outlay funds for current expenses shall not be eligible to participate in the school facilities construction commission funds.*

(5)[~~(4)~~] If a survey shows that a school district has no capital outlay needs as shown in paragraphs (a), (b), (c), and (d) of subsection (3) of this section, upon approval of the superintendent of public instruction, these funds may be used for school plant maintenance, repair, insurance on buildings, replacement of equipment, purchase of school buses and the purchase of modern technological equipment, including telecommunications hardware, televisions, computers and other technological hardware to be utilized for educational purposes only.

The Committee on Energy reported **HCR 120** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HCR 120, A CONCURRENT RESOLUTION endorsing the concept of exporting coal by wire as electricity, and directing a study of its feasibility.

WHEREAS, after a period of stagnation, the nation's demand for electricity is growing rapidly; and

WHEREAS, increasingly, this demand is being met with imports from Canada; and

WHEREAS, Kentucky has enough coal to meet the needs of the nation for decades, and the technical know-how to burn the coal cleanly; and

WHEREAS, power generating plants located in Kentucky's coal fields would reduce the problems of transporting coal, create local jobs and create a new export base within the state;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly endorses the concept of exporting coal by wire, that is, of producing electricity, in the coal fields for export to other states.

Section 2. That the Interim Joint Committee on Energy is directed to study the economic environmental and technical feasibility of producing surplus electric power in the coal fields for export to other states by wire, and to submit a report and recommendations to the Legislative Research Commission no later than September 30, 1989. In its study, the Committee should review the experience of other states, particularly West Virginia, to identify any potential problems, and should evaluate various options for organizing and financing the needed facilities.

Section 3. Staff services to be utilized in completing this study are estimated to cost $20,000. These staff services shall be provided from the regular Commission budget and are subject to the limitations and other responsibilities of the Commission.

The Committee on Judiciary-Criminal reported **HB 396** with Committee Amendment attached thereto, **HB 858**, **SB 96**, **SB 97**, **SB 99** and **SB 178** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 396, AN ACT relating to the Kentucky Unified Juvenile Code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 610 IS CREATED TO READ AS FOLLOWS:

When a child has been taken into custody on a charge of murder, assault in the first degree, rape in the first degree, sodomy in the first degree, kidnapping in the first degree, arson in the first degree or any other felony offense in which a person received serious physical injury or in which a deadly weapon was used or carried, the child shall be detained in a secure detention facility until trial, unless it can be shown to the satisfaction of the court that the child:

(1) Does not represent a threat to the community or to any specific person, or persons, or himself, if released prior to trial; and

(2) Is likely to appear for the trial.

The Committee Amendment No. 1 to **HB 396** is as follows:

Amend printed copy of **HB 396** on page 1, line 9, following the word "*facility*" to add the following "*, juvenile holding facility, or in a jail, but in a room or ward entirely separate and apart from adult prisoners by sight and sound.*"

HB 858, AN ACT relating to probation fees in counties containing a city of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the corrections cabinet, or the department of community services and facilities, shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500).

(b) For a misdemeanor, not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(3) The fee may be ordered paid in a lump sum or installments. If the fee is to be paid in a lump sum the person shall not be released from custody until the fee is paid in full. If the fee is to be paid in installments the person may be released on such terms and conditions as are set by the releasing authority.

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released.

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make such payments and in making this determination the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. The releasing authority may waive the payment of the fee in whole or in part if it finds that any of the following factors exist:

(a) The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to pay said fee.

(b) The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled.

(c) The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

(d) The offender is responsible for the support of dependents, and the payment of said fee constitutes an undue hardship on the offender or his dependents.

(e) Any other factor which may bear upon the defendant's financial capacity to pay said fee.

(6) At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay said fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(7) All sums paid by the defendant pursuant to this section shall be paid into the general fund.

(8) When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of such release, unless the authority specifically waives the fee, and nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(9) All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county involved.

(10) The corrections cabinet and office of community services shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

(11) In counties containing an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release agency of the urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of subsections (2), (3), (4), (5), (6), (8) and (9) of this section. All sums paid by the defendant under this subsection shall be paid into the general fund of the urban-county government in lieu of the payment specified in subsection (7) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the urban county involved. The adult misdemeanant probation and work release agency of the urban-county government shall for each person released under its supervision keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

(12) In counties containing a city of the first class, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the misdemeanant intensive probation program funded, directly or indirectly, by the county shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of subsections (2), (3), (4), (5), (6), (8) and (9) of this section. All sums paid by the defendant under this subsection shall be paid into the general fund of the county government in lieu of the payment specified in subsection (7) of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the county involved. The misdemeanant intensive probation program shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit court and report delinquencies to the court.

SB 96. AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand

dollars ($20,000), or both.

(2)(a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6)(a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

(15) Any person who commits a criminal conspiracy as defined in KRS 506.040 to traffic in a controlled substance shall be subject to the same penalties for trafficking in that controlled substance as specified in this section.

Section 2. KRS 506.040 is amended to read as follows:

(1) A person having the intention of promoting or facilitating the commission of a crime is guilty of criminal conspiracy when he:

(a) Agrees with one or more persons that at least one of them will engage in conduct constituting that crime or an attempt or solicitation to commit such a crime; or

(b) Agrees to aid one or more persons in the planning or commission of that crime or an attempt or solicitation to commit such a crime.

(2) *Except as provided in KRS 218A.990(15),* a criminal conspiracy is a:

(a) Class B felony when the object of the conspiratorial agreement is a Class A felony or capital offense;

(b) Class C felony when the object of the conspiratorial agreement is a Class B felony;

(c) Class A misdemeanor when the object of the conspiratorial agreement is a Class C or D felony;

(d) Class B misdemeanor when the object of the conspiratorial agreement is a misdemeanor.

SB 97. AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall,

for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall, *for the first offense,* be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, *and for each subsequent offense, shall be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.*

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, or of any controlled substance classified in schedules IV,

or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(12) Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(13) Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(14) Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

SB 99. AN ACT relating to controlled substances.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 218A.990 is amended to read as follows:

(1) Any person who knowingly and unlawfully traffics in or transfers a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(2) (a) Any person who knowingly and unlawfully traffics in a controlled substance classified in schedules I or II other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, lysergic acid diethylamide or phencyclidine, or in any controlled substance classified in schedule III shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell lysergic acid diethylamide or phencyclidine shall, for the first offense, be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than ten (10) years nor more than twenty (20) years or be fined not less than ten thousand dollars ($10,000) nor more than twenty thousand dollars ($20,000), or both.

(3) Any person who knowingly and unlawfully traffics in any controlled substance classified in schedules IV or V or transfers any controlled substance other than a narcotic drug or other than a substance included in KRS 218A.070(1)(d), except marijuana, classified in schedules I, II, or III shall, for the first offense, be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both, and for each subsequent offense shall be confined in the penitentiary for not less than one (1) nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(4) (a) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell less than eight (8) ounces of marijuana shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(b) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell eight (8) ounces or more but less than five (5) pounds of marijuana shall be guilty of a Class D felony.

(c) Any person who knowingly and unlawfully manufactures, sells, or possesses with intent to sell five (5) pounds or more of marijuana shall be confined in the penitentiary for not less than five (5) nor more than ten (10) years and be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000).

(5) Any person eighteen (18) years of age or older who knowingly and unlawfully sells or transfers any amount of marijuana to any person under eighteen (18) years of age shall, for the first offense, be guilty of a Class D felony and for each subsequent offense shall be guilty of a Class C felony.

(6) (a) Any person who knowingly and unlawfully plants, cultivates or harvests marijuana for the purposes of sale shall be confined to the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000) or both.

(b) If any person knowingly and unlawfully plants, cultivates or harvests twenty-five (25) or more plants of marijuana, it shall be presumed that the plants of marijuana were planted, cultivated or harvested for the purpose of sale.

(c) No owner, occupant or person having control or management of land on which marijuana has been planted, cultivated or harvested shall be found guilty of violating the provisions of this subsection, unless the Commonwealth proves that he knew of the planting, cultivating or harvesting of the marijuana.

(7) Any person who knowingly and unlawfully possesses a controlled substance classified in schedules I or II which is a narcotic drug or which is included in KRS 218A.070(1)(d) shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.

(8) Except as otherwise provided in this subsection, any person who knowingly and unlawfully possesses any controlled substance classified in schedules I, II, or III which is not a narcotic drug and which is not included in KRS 218A.070(1)(d), except marijuana, *lysergic acid diethylamide or phencyclidine,* or of any controlled substance classified in schedules IV, or V, shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(a) Any person found guilty of possession of any controlled substance pursuant to this subsection shall for a first offense, be ordered to a facility designated by the secretary of the cabinet for human resources where a program of treatment and rehabilitation not to exceed one year in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If, without good cause, the person fails to appear at the designated facility within the specified time, or if at any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than one (1) year or a fine of not more than five hundred dollars ($500), or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the one-year period or upon satisfactory completion of one (1) year of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which such person is sentenced.

(c) Transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment of patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) Any person found guilty of a subsequent offense of possession of controlled substances in violation of subsection (8) of this section shall be confined in the county jail for not more than one (1) year or be fined not more than five hundred dollars ($500), or both.

(h) Prior to the imposition of sentence upon conviction of a second or subsequent offense, the court shall obtain a report of case progress and recommendations regarding further treatment from the facility at which the person was treated following his first conviction. If such material is not available, the court shall notify the secretary of the cabinet for human resources, and the secretary shall cause the person to be examined by a psychiatrist employed by the cabinet to evaluate his mental condition and to make recommendations regarding treatment and rehabilitation. The psychiatrist making the examination shall submit a written report of his findings and recommendations regarding treatment and rehabilitation to the court which shall make the report available to the prosecuting attorney and the attorney for the defendant. The court shall take such reports into consideration in determining sentence. The secretary may decline to cause such examination to be made if the number of psychiatrists on duty in the cabinet is insufficient to spare one from his regular duties or if no such service may be purchased at regular cabinet rates, in such event the secretary shall notify the clerk of the court to that effect within three (3) days after receipt of notification by the court.

(i) For purposes of this section, an offense is considered a second or subsequent offense, if, prior to his conviction of the offense, the offender has at any time been convicted under this chapter or under any statute of the United States or of any state relating to the substances classified as controlled substances.

(j) None of the provisions of this subsection shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(k) In the case of any person who has been convicted for the first time of possession of controlled substances, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime. Voiding of conviction under this subsection and dismissal may occur only once with respect to any person.

(9) Any person who knowingly and unlawfully possesses for his own use or transfers less than eight (8) ounces of marijuana shall be confined in the county jail for not more than ninety (90) days or be fined not more than two hundred fifty dollars ($250).

(a) Any person found guilty of violating subsection (9) above may be ordered to a facility designated by the secretary of the cabinet for human resources where a program of education, treatment, and rehabilitation not to exceed ninety (90) days in duration shall be prescribed. The person ordered to the designated facility shall present himself for registration and initiation of a treatment program within five (5) days of the date of sentencing. If without good cause, the person fails to appear at the designated facility within the specified time, or if any time during the program of treatment prescribed, the authorized clinical director of the facility finds that the person is unwilling to participate in his treatment and rehabilitation, the director shall notify the sentencing court. Upon receipt of notification, the court shall cause the person to be brought before it and may continue the order of treatment and rehabilitation, or may order confinement in the county jail for not more than ninety (90) days or a fine of not more than two hundred fifty dollars ($250) or both. Upon discharge of the person from the facility by the secretary of the cabinet for human resources or his designee prior to the expiration of the ninety-day period or upon satisfactory completion of ninety (90) days of treatment, the person shall be deemed finally discharged from sentence. The secretary or his designee shall notify the sentencing court of the date of such discharge from the facility.

(b) The secretary of the cabinet for human resources or his designee shall inform each court of the identity and location of the facility to which a person sentenced by that court under this chapter shall be initially ordered.

(c) In the case of a person ordered to a facility for treatment and rehabilitation pursuant to this chapter, transportation to the facility shall be provided by the court when the court finds the person unable to convey himself to the facility within five (5) days of sentencing by reason of physical infirmity or financial incapability.

(d) The sentencing court shall immediately notify the designated facility of the sentence and its effective date.

(e) The secretary of the cabinet for human resources, or his designee, may authorize transfer of the person from the initially designated facility to another facility for therapeutic purposes. The sentencing court shall be notified of termination of treatment by the terminating facility.

(f) Responsibility for payment for treatment services rendered to persons pursuant to this section shall be as under the statutes pertaining to payment by patients and others for services rendered by the cabinet for human resources unless the person and the facility shall arrange otherwise.

(g) None of the provisions of this chapter shall be deemed to preclude the court from exercising its usual discretion with regard to ordering probation or conditional discharge.

(h) In the case of any person who has been convicted of possession of marijuana, the court may set aside and void the conviction upon satisfactory completion of treatment, probation or other sentence, and issue to the person a certificate to that effect. A conviction voided under this subsection shall not be deemed a conviction for purposes of disqualifications or disabilities imposed by law upon conviction of a crime.

(10) *Any person who knowingly and unlawfully possesses lysergic acid, diethylamide or phencyclidine for his own use shall, for the first offense, be confined in the penitentiary for not less than one (1) year nor more than five (5) years or be fined not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both, and for each subsequent offense shall be confined in the penitentiary for not less than five (5) years nor more than ten (10) years or be fined not less than five thousand dollars ($5,000) nor more than ten thousand dollars ($10,000), or both.*

(11) Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules I, II, or III shall be guilty of a felony and shall be punished by confinement in the penitentiary for not less than one (1) year nor more than five (5) years, or by a fine of not less than three thousand dollars ($3,000) nor more than five thousand dollars ($5,000), or both.

(12)[~~(11)~~] Any person who violates any provision of subsection (3), (4), or (5) of KRS 218A.140 with respect to a controlled substance classified in schedules IV or V shall be guilty of a felony and shall be punished by not less than one (1) year nor more than three (3) years imprisonment, or by a fine of not less than one thousand dollars ($1,000) nor more than three thousand dollars ($3,000), or both.

(13)[~~(12)~~] Any person who violates subsection (6) of KRS 218A.140 or who violates any other provision of this chapter, for which a specific penalty is not otherwise provided, shall be guilty of a misdemeanor and shall upon conviction be imprisoned for not more than ninety (90) days or fined not more than five hundred dollars ($500), or both.

(14)[~~(13)~~] Any person who violates any of the provisions of KRS 218A.350 shall be guilty of a Class A misdemeanor for the first offense and a Class D felony for subsequent offenses.

(15)[~~(14)~~] Any person who violates any provision of KRS 218A.500(2), (3) or (4) shall be guilty of a Class A misdemeanor.

SB 178. AN ACT relating to crimes and punishments and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 525 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains.

(2) Desecration of venerated objects in the first degree is a Class D felony.

Section 2. KRS 525.110 is amended to read as follows:

(1) A person is guilty of desecration of venerated objects *in the second degree* when he intentionally:

(a) Desecrates any public monument or object or place of worship or burial; or

(b) Desecrates in a public place the national or state flag or other patriotic or religious symbol which is an object of veneration by the public or a substantial segment thereof.

(2) Desecration of venerated objects *in the second degree* is a Class A misdemeanor.

Section 3. Whereas the crimes denounced herein are the subject of active gravesite robberies in Kentucky at the present time and it is necessary to place the increased penalties provided for here into effect immediately, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Rules reported **HB 343, HB 452, HB 310, HB 637, HB 784, HB 806, HB 808, HB 810, HB 811, HB 961, HB 1017, HB 381, HB 382, HB 384, HB 672, HB 688, HB 695, HB 1002, HB 423, HB 424, HB 516, HB 814, HB 849, HB 862** and **HB 988** have been posted for passage in Orders of the Day, March 17, 1988.

The Committee on Rules reported the following Consent Bill has been posted for passage in Regular Orders of the Day, March 17, 1988: **HB 977.**

The Committee on Rules reported the following Bills have been recommitted:

Health and Welfare: **HB 648.**

Calendar

HB 587, HB 618, HB 1018, SB 68, HB 174, HB 224, HB 566, HB 606, HB 716, HB 928, HB 939, HB 478, HB 916, HB 966, HB 213, HB 214, HB 301, HB 458, HB 901, HB 1021, HB 1022, HJR 115, HB 605, HB 706, HB 707, HCR 128, SB 48, SB 118, HB 523, HB 748, HB 754, HB 805, HB 984, SB 65, SB 104, SB 142, SB 148, SB 150 and **SB 166** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 705, HB 809 and **HB 910** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 857 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gregory moved that **HB 857** be passed.

On the roll call the vote was: Yeas 83, Nays 1. (See March 16, 1988 roll call on **HB 857** - Appendix A.)

HB 857 was passed and the title agreed to.

Representative Gregory moved that the vote by which **HB 857** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 937 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bronger moved that **HB 937** be passed.

On the roll call the vote was: Yeas 91, Nays 1. (See March 16, 1988 roll call on **HB 937** - Appendix A.).

HB 937 was passed and the title agreed to.

Representative Bronger moved that the vote by which **HB 937** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 721, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Floor Amendment No. 1 to **HB 721**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 1 to **HB 721**. Agreed.

Representative Donnermeyer moved the adoption of Committee Amendment No. 2 to **HB 721**. Agreed.

Representative Donnermeyer moved that **HB 721**, as amended, be passed.

On the roll call the vote was: Yeas 77, Nays 8. (See March 16, 1988 roll call on **HB 721** - Appendix A.)

HB 721, as amended, was passed.

Representative Donnermeyer moved the adoption of Floor Title Amendment to **HB 721**. Agreed; and title was agreed to.

Representative Donnermeyer moved that the vote by which **HB 721**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 201, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **SB 201**. Agreed.

Representative Mason moved the adoption of Floor Amendment No. 2 to **SB 201**. Rejected.

Representative B. Richardson moved that **SB 201**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 16, 1988 roll call on **SB 201** - Appendix A.)

SB 201, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **SB 201**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 771 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 771** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 16, 1988 roll call on **HB 771** - Appendix A.)

HB 771 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 771** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 789 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved that **HB 789** be passed.

On the roll call the vote was: Yeas 18, Nays 70. (See March 16, 1988 roll call on **HB 789** - Appendix A.)

HB 789 was defeated.

Representative Clarke moved that the vote by which **HB 789** was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 873 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 873** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1988 roll call on **HB 873** - Appendix A.)

HB 873 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 873** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 820 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Priddy moved that **HB 820** be passed.

On the roll call the vote was: Yeas 67, Nays 21. (See March 16, 1988 roll call on **HB 820** - Appendix A.)

HB 820 was passed and the title agreed to.

Representative Priddy moved that the vote by which **HB 820** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 13, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mason moved the adoption of Committee Amendment No. 1 to **HB 13**. Agreed.

Representative Mason moved that **HB 13**, as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1988 roll call on **HB 13** - Appendix A.)

HB 13, as amended, was passed and the title agreed to.

Representative Mason moved that the vote by which **HB 13**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 32 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoover moved that **HB 32** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1988 roll call on **HB 32** - Appendix A.)

HB 32 was passed and the title agreed to.

Representative Hoover moved that the vote by which **HB 32** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 49 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 49** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 16, 1988 roll call on **HB 49** - Appendix A.)

HB 49 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 49** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 85 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved that **HB 85** be passed.

On the roll call the vote was: Yeas 96, Nays 0. (See March 16, 1988 roll call on **HB 85** - Appendix A.)

HB 85 was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 85** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 225, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Amendment No. 1 to **HB 225**. Agreed.

Representative Kerr moved that **HB 225**, as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1988 roll call on **HB 225** - Appendix A.)

HB 225, as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 225**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 305 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 305** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1988 roll call on **HB 305** - Appendix A.)

HB 305 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 305** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 472 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 472** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 16, 1988 roll call on **HB 472** - Appendix A.)

HB 472 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 472** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 473 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 473** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 16, 1988 roll call on **HB 473** - Appendix A.)

HB 473 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 473** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 874 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved that **HB 874** be passed.

On the roll call the vote was: Yeas 63, Nays 24. (See March 16, 1988 roll call on **HB 874** - Appendix A.)

HB 874 was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 874** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 365, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved that **HB 365** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1988 roll call on **HB 365** - Appendix A.)

HB 365 was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 365** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 574, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Amendment No. 1 to **HB 574**. Agreed.

Representative Blevins moved that **HB 574**, as amended, be passed.

Representative Altman moved the adoption of Floor Amendment No. 1 to **HB 574**.

Representative Farrow moved that **HB 574**, as amended, be laid on the Clerk's Desk.

On the roll call the vote was yeas 34-Ballard, J. Brown, Bruce, Casebier, Castleman, L. Clark, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gregory, Guenthner, Hancock, Heleringer, A. Jones, R. Jones, Layman, Little, McElroy, Morris, Napier, Preston, Rapier, Reinhardt, B. Richardson, P. Richardson, Robinson, Siler, R. Smith, Strong, Todd, Turner. Nays 43-Ackerson, Adkins, Allen, Ark, Arnold, Barrows, Blevins, Bronger, M. Brown, Burch, Callahan, P. Clark, Cline, Cyrus, Deskins, Geveden, Gray, Handy, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, T. Jones, Lear, Lefevers, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, Nett, Overstreet, Priddy, Richards, Ridley, Scorsone, Walker, White, Will, Yates.

The motion that **HB 574**, as amended, be laid on the Clerk's Desk was rejected.

Representative Blevins, the sponsor of the Bill, made a privileged motion that **HB 574** be laid on the Clerk's Desk.

The motion that **HB 574** be laid on the Clerk's Desk was adopted by voice vote.

HB 594, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Amendment No. 1 to **HB 594**. Agreed.

Representative Lear moved that **HB 594**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 5. (See March 16, 1988 roll call on **HB 594** - Appendix A.)

HB 594, as amended, was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 594**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 908, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Substitute to **HB 908**. Agreed.

Representative Lear moved the adoption of Floor Amendment No. 1 to **HB 908**. Agreed.

Representative Callahan moved that **HB 908**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 65, Nays 19. (See March 16, 1988 roll call on **HB 908** - Appendix A.)

HB 908, by way of Committee Substitute as amended,, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 908**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 673, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative M. Brown moved the adoption of Committee Substitute to **HB 673**. Agreed.

Representative Ridley moved the adoption of Floor Amendment No. 1 to **HB 673**. Agreed.

Representative M. Brown moved that **HB 673**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 81, Nays 10. (See March 16, 1988 roll call on **HB 673** - Appendix A.)

HB 673, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative M. Brown moved that the vote by which **HB 673**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 777, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of Floor Amendment No. 1 to **HB 777**. Agreed.

Representative B. Richardson moved that **HB 777**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 16, 1988 roll call on **HB 777** - Appendix A.)

HB 777, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 777**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 956, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of Committee Substitute to **HB 956**. Agreed.

Representative LeMaster moved the adoption of Floor Amendment No. 1 to **HB 956**. Agreed.

Representative Lundergan moved that **HB 956**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 86, Nays 8. (See March 16, 1988 roll call on **HB 956** - Appendix A.)

HB 956, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 956**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 361**, **HB 408**, **HB 415**, **HB 509** and **HB 641** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 3:35 p.m.)

HB 361, **HB 408**, **HB 415**, **HB 509** and **HB 641** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day (continued)

HB 712 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved that **HB 712** be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See March 16, 1988 roll call on **HB 712** - Appendix A.)

HB 712 was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 712** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 816 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved that **HB 816** be passed.

On the roll call the vote was: Yeas 62, Nays 26. (See March 16, 1988 roll call on **HB 816** - Appendix A.)

HB 816 was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 816** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 992 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Arnold moved that **HB 992** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 16, 1988 roll call on **HB 992** - Appendix A.)

HB 992 was passed and the title agreed to.

Representative Arnold moved that the vote by which **HB 992** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 314, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Richardson moved the adoption of Committee Amendment No. 1 to **HB 314**. Agreed.

Representative B. Richardson moved the adoption of Committee Amendment No. 2 to **HB 314**. Agreed.

Representative B. Richardson moved that **HB 314**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 0. (See March 16, 1988 roll call on **HB 314** - Appendix A.)

HB 314, as amended, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 314**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 481, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Little moved the adoption of Committee Amendment No. 1 to **HB 481**. Agreed.

Representative Little moved that **HB 481**, as amended, be passed.

On the roll call the vote was: Yeas 79, Nays 9. (See March 16, 1988 roll call on **HB 481** - Appendix A.)

HB 481, as amended, was passed and the title agreed to.

Representative Little moved that the vote by which **HB 481**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 561, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Mack moved the adoption of Committee Substitute to **HB 561**. Agreed.

Representative Mack moved that **HB 561**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 16, 1988 roll call on **HB 561** - Appendix A.)

HB 561, by way of Committee Substitute, was passed and the title agreed to.

Representative Mack moved that the vote by which **HB 561**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 581 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **HB 581** be passed.

On the roll call the vote was: Yeas 86, Nays 2. (See March 16, 1988 roll call on **HB 581** - Appendix A.)

HB 581 was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 581** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 621, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lear moved the adoption of Committee Substitute to **HB 621**. Agreed.

Representative Lear moved that **HB 621**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 16, 1988 roll call on **HB 621** - Appendix A.)

HB 621, by way of Committee Substitute, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 621**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 730 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bronger moved that **HB 730** be laid on the table.

On the roll call the vote was yeas 40-Allen, Altman, Arnold, Bronger, J. Brown, Casebier, L. Clark, Cyrus, Deskins, Donnermeyer, Farrow, Ford, Freibert, Gray, Gregory, Guenthner, Hancock, Heleringer, Hoover, Johnson, Keith, Layman, Lile, McBee, McElroy, Nett, Northup, O'Brien, Overstreet, Pritchett, Reinhardt, B. Richardson, P. Richardson, Ridley, Seum, Siler, R. Smith, Strong, Todd, Turner. Nays 41-Adams, Ark, Ballard, Blevins, Bruce, Burch, Callahan, Castleman, P. Clark, Clarke, Cline, Crupper, Curd, Gedling, Geveden, Handy, J. Harper, Hatcher, Hourigan, Jackson, A. Jones, R. Jones, T. Jones, Kerr, Lear, Long, Mack, Maggard, Mason, Moberly, Napier, Noe, Preston, Rapier, Riner, Robinson, Scorsone, B. Smith, White, Will, Worthington.

The motion that **HB 730** be laid on the table was rejected.

Representative Blevins moved that **HB 730** be passed.

On the roll call the vote was: Yeas 49, Nays 49. (See March 16, 1988 roll call on **HB 730** - Appendix A.)

HB 730 was defeated.

Representative Stumbo moved that the vote by which **HB 730** was defeated be reconsidered and said motion be placed on the table. Agreed.

HB 803 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walker moved that **HB 803** be passed.

On the roll call the vote was: Yeas 91, Nays 5. (See March 16, 1988 roll call on **HB 803** - Appendix A.)

HB 803 was passed and the title agreed to.

Representative Walker moved that the vote by which **HB 803** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 835 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Farrow moved that **HB 835** be passed.

On the roll call the vote was: Yeas 81, Nays 10. (See March 16, 1988 roll call on **HB 835** - Appendix A.)

HB 835 was passed and the title agreed to.

Representative Farrow moved that the vote by which **HB 835** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 842 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 842** be passed.

On the roll call the vote was: Yeas 94, Nays 2. (See March 16, 1988 roll call on **HB 842** - Appendix A.)

HB 842 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 842** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 889 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HB 889** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 16, 1988 roll call on **HB 889** - Appendix A.)

HB 889 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HB 889** was passed be reconsidered and said motion

be placed on the table. Agreed.

HCR 116 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johnson moved that **HCR 116** be passed.

On the roll call the vote was: Yeas 84, Nays 9. (See March 16, 1988 roll call on **HCR 116** - Appendix A.)

HCR 116 was passed and the title agreed to.

Representative Johnson moved that the vote by which **HCR 116** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1007 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nett moved that **HB 1007** be passed.

On the roll call the vote was: Yeas 84, Nays 4. (See March 16, 1988 roll call on **HB 1007** - Appendix A.)

HB 1007 was passed and the title agreed to.

Representative Nett moved that the vote by which **HB 1007** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 227, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 227** is as follows:

Amend printed copy of **HB 227** on page 1, line 5, after the word "*from*" by inserting the words "*camping fees*"; and

On page 1, line 5, by deleting the words "*the fees for camping*"; and

On page 1, line 6, by deleting the words "*and admission*".

Representative Hancock moved that the House concur in Senate Committee Amendment No. 1 to **HB 227**. Agreed

Representative Hancock moved that **HB 227**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 16, 1988 roll call on **HB 227** - Appendix A.)

HB 227, as amended by the Senate, was passed and the title agreed to.

Representative Hancock moved that the vote by which **HB 227**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 453, with Senate Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 6 to **HB 453** is as follows:

Amend printed copy of **HB 453** on page 1, lines 3 and 4, by deleting "*one thousand dollars ($1,000)*" and inserting in lieu thereof "*four thousand dollars ($4,000)*";

And on page 1, lines 9 and 10, by deleting "*one thousand dollars ($1,000)*" and inserting in lieu thereof "*four thousand dollars ($4,000)*";

And on page 2, line 11, by deleting "*one thousand dollars ($1,000)*" and inserting in lieu thereof "*four thousand dollars ($4,000)*";

And on page 2, line 13, by deleting "*one thousand dollars ($1,000)*" and inserting in lieu thereof "*four thousand dollars ($4,000)*";

And on page 4, line 23, after "*candidate*" by inserting "*, except to the extent of a total of fifty thousand dollars ($50,000)*".

Representative B. Richardson moved that the House concur in Senate Floor Amendment No. 6 to **HB 453**. Agreed

Representative B. Richardson moved that **HB 453**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 80, Nays 11. (See March 16, 1988 roll call on **HB 453** - Appendix A.)

HB 453, as amended by the Senate, was passed and the title agreed to.

Representative B. Richardson moved that the vote by which **HB 453**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 576, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Committee Amendment No. 1 to **HB 576** is as follows:

Amend printed copy of **HB 576** on page 1, line 12, by inserting after the words "*licensed hospice, licensed home health agency,*" the following words: *health insurer, health maintenance organization, health services corporation,*"

Representative Scorsone moved that the House concur in Senate Committee Amendment No. 1 to **HB 576**. Agreed

Representative Scorsone moved that **HB 576**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 16, 1988 roll call on **HB 576** - Appendix A.)

HB 576, as amended by the Senate, was passed and the title agreed to.

Representative Scorsone moved that the vote by which **HB 576**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 166, by Representative Scorsone: A RESOLUTION recognizing March 16 as Freedom of Information Day.

HR 167, by Representative Farrow: A RESOLUTION adjourning in memory of James Marvin Guill.

HR 168, by Representative Strong: A RESOLUTION recognizing the Buckhorn High School Wildcats basketball team.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

Appropriations and Revenue: **SB 280**.

Education: **SB 294**.

Business Organizations and Professions: **HB 1023**.

Judiciary-Civil: **HB 798**, **HB 825**, **HB 686**, **HB 863**, **HB 940**, **SB 288**, **SB 304**.

The Clerk announced **HB 369**, **HB 370**, **HB 692** and **HB 921** have been withdrawn from consideration by the Committee on Appropriations and Revenue.

Motions, Petitions and Communications (continued)

Representative Cline moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cline moved the adoption of the following **HR 164**:

HR 164, A RESOLUTION congratulating Kentucky Christian College Men's Basketball Team, the Knights.

WHEREAS, Kentucky Christian College Men's Basketball Team triumphantly won first place in the National Christian College Athletic Association National Tournament; and

WHEREAS, the Knights, seeded second going into the tournament, defeated Swaggart Bible College 77-65 on March 3, Bay Ridge (Houston, Texas) 86-85 on March 4th, and continued their winning streak through the Championship game in which they were victorious over Valley Forge (Pennsylvania) 71-64; and

WHEREAS, Denny Ferguson and Greg Wallace of K.C.C. were named to the all-tournament team; and

WHEREAS, the Knights completed their season undefeated against other Bible Colleges with a record of 23 and 0, and were 26 and 8 overall; and

WHEREAS, K.C.C. players named to the all-regional honors were: Craig Yates, receiving top number of votes, Denny Ferguson also on first team all-region, and Greg Wallace on the second team; with K.C.C. Coach Randy Kirk named Regional Coach of the year; and

WHEREAS, the first five team members are: Denny Ferguson, Greg Wallace, Todd Layne, Doug Piatt (all seniors), and Craig Yates (a junior). Other senior team members are: Jeff Clark and Ricky Stone; junior team members are Jeff Kinney and Mike Petty; sophomore team members are: Kevin Hart, Rodney Persinger, Eric Augustus, and Heath Sherman; the Student Coaching Assistant is Don Conley, the trainer is Jim Matthews, the Manager is Doug Martin, the Statistician is Jane Piatt, the Scorekeeper is Debbie Stewart; the school Cheerleaders are Sarah Macy, Lisa Key, Tammy Hammonds, Jill Spearman, and Becky Baker;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body proudly honors the members of the Kentucky Christian College Men's Basketball Team and Coach Randy Kirk upon their impressive winning season.

Section 2. That the House recognizes and commends the dedication and devotion of the members of Kentucky Christian College Men's Basketball Team and Coach Randy Kirk in their pursuit of excellence in athletic competition.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Dr. Benic P. Hampton, Jr. and Coach Randy Kirk.

HR 164 was adopted by voice vote.

Representative Blevins moved that **HB 574** be taken from the Clerk's Desk and be placed in the Orders of the Day, March 17, 1988. Agreed.

Representative Farrow moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Farrow moved the adoption of the following **HR 167**:

HR 167, A RESOLUTION adjourning in memory of James Marvin Guill.

With deepest respect, we pay tribute to the memory of James Marvin Guill.

WHEREAS, James Marvin Guill of Stamping Ground, Kentucky, traversed these earthly bounds on Tuesday, March 8, 1988; and

WHEREAS, James Marvin Guill was a victim of the tragic helicopter disaster of March 8, 1988 at Fort Campbell; and

WHEREAS, James Marvin Guill was a highly respected and dedicated helicopter instructor pilot for the 101st Airborne Division at Fort Campbell; and

WHEREAS, James Marvin Guill was a loving husband to his wife, Janet, and the devoted father of Jason, age seven, and Cheryl Lynn, age three; and

WHEREAS, all who knew and admired James Marvin Guill grieve over their loss and join his family and friends who mourn his passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its most profound sense of sorrow upon the tragic death of James Marvin Guill and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, March 16, 1988, it does so in loving memory of James Marvin Guill.

Section 3. That the Clerk of the House of Representatives be directed to transmit copies of this resolution to Mrs. Janet Guill, 1217 B Warner Park, Ft. Campbell, Kentucky, 42223, and to Mrs. Edith Jenkins Farrow, 322 Stonetown Road, Stamping Ground, Kentucky, 40379.

HR 167 was adopted by voice vote.

Representative Altman moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Altman moved the adoption of Legislative Citation No. 93. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds WAYNE PRICE a senior at Green County High School for your achievement of being selected a Governor's Scholar. Further, the curriculum you are pursuing today will help to prepare you for future endeavors and we commend you for your dedication to these studies.

The House of Representatives joins Representative Ray Altman in saluting you and encourages you to continue your dedication to excellence in academics.

Representative Heleringer moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Heleringer moved the adoption of the following **HR 165**:

HR 165, A RESOLUTION adjourning in memory and honor of Frank J. Muth.

With deepest respect, we pay homage and tribute to the memory of Frank J. Muth.

WHEREAS, Frank J. Muth of Lexington, Kentucky, traversed these earthly bounds on Tuesday, March 15, 1988; and

WHEREAS, Frank J. Muth was well-loved and highly respected among the thoroughbred industry; and

WHEREAS, Frank J. Muth spent many years at all Kentucky horse racing tracks in his capacity as placing judge; and

WHEREAS, Frank J. Muth, for the past five years, devoted his time and effort to Keeneland Race Course and Churchill Downs; and

WHEREAS, Frank J. Muth was a former thoroughbred owner, breeder and trainer, had been a veterinarian's assistant for the state racing commission and racing secretary at Ellis Park; and

WHEREAS, Frank J. Muth served his country with distinction during World War II; and

WHEREAS, Frank J. Muth was a devoted member of St. Peter Catholic Church in Lexington, Kentucky; and

WHEREAS, Frank J. Muth was the loving husband of Mary Francis Mahoney and the devoted father of Paula Ann Frye and grandfather of David Patrick Frye II; and

WHEREAS, all who knew and admired Frank J. Muth grieve over their loss, and join his family and friends who mourn his passing;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives does hereby express its profound sense of sorrow upon the passing of Frank J. Muth and does extend to his family its most heartfelt sympathy.

Section 2. That when the House of Representatives adjourns this day, Wednesday, March 16, 1988, it does so in loving memory of Frank J. Muth.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mrs. Mary Francis Mahoney Muth, 102 West Second Street, Lexington, Kentucky, 40507.

HR 165 was adopted by voice vote.

Representative Scorsone moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Scorsone moved the adoption of the following **HR 166**:

HR 166, A RESOLUTION recognizing March 16 as Freedom of Information Day.

WHEREAS, the essence of a Democracy is government by the people; and

WHEREAS, the citizens of a Democracy must have access to all manner of ideas and information if they are to make wise and fair decisions regarding the function and operations of their government; and

WHEREAS, the public's right to a free flow of ideas and information, as conveyed by the American press corps and other independent institutions, is now beset by misunderstanding, controversy, and outright opposition by some who are attempting to shut off government sources, further regulate broadcasting, and censor literary works while claiming to uphold the open government necessary to the preservation of American rights and liberties; and

WHEREAS, the rights and responsibilities of a free press and other independent institutions require public awareness and support; and

WHEREAS, the Congress of the United States has, in the past, declared March 16 as National Freedom of Information Day; and

WHEREAS, James Madison, the fourth president of the United States, was instrumental in the composition and adoption of the Bill of Rights, including the First Amendment guarantees of a freedom of speech and of the press; and

WHEREAS, March 16 is not only James Madison's birthday but also the third anniversary of the captivity in Lebanon of American journalist Terry Anderson, the longest-held hostage in that nation, and a former employe of the Louisville Bureau of the Associated Press; and

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the members of the House of Representatives do hereby recognize March 16 as Freedom of Information Day in the Commonwealth of Kentucky.

HR 166 was adopted by voice vote.

Representative Stumbo moved that **SB 281** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Bruce moved that **HB 921** be withdrawn. Agreed.

Representative Blevins moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Blevins moved the adoption of Legislative Citation No. 90. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds MABEL WILLIAMS BARBER for being chosen the 1988 Kentucky Mother of the Year. This prestigious award signifies your years of devotion to your family, your community and those around you whose lives you have touched so deeply. Paramount among your activities are the 42 years of work with our school children, your public service in the areas of education, religion and medicine and your church activities.

The House of Representatives joins Representative Walter Blevins in honoring you, MABEL WILLIAMS

BARBER, loving wife, mother and friend, and is proud to have you representing all mothers from the Commonwealth of Kentucky.

Representative White moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative White moved that her vote be changed from "nay" to "yea" on **HB 944**. Agreed.

Representative Bronger moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bronger moved that he be recorded as voting "yea" on **HB 820**. Agreed.

Representative White moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative White moved that she be recorded as voting "yea" on **HB 305**. Agreed.

Representative O'Brien moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative O'Brien moved that his vote be changed from "nay" to "yea" on **HB 652**. Agreed.

Representative Todd moved the rules be suspended for the purpose of recording votes. Agreed.

Representative Todd moved that his vote be changed from "yea" to "nay" on **HB 820** and **HB 874**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 314**. Agreed.

Representative Arnold moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Arnold moved that he be recorded as voting "yea" on **HB 481**. Agreed.

Representative Callahan moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HB 673**, **HB 777**, **HB 956**, **HB 712**, **HB 816**, **HB 992**, **HB 314**, **HB 481**, **HB 561**, **HB 621** and **HB 581**. Agreed.

Representative Stumbo moved that the rules be suspended to make adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns it do so by voice vote. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute to **HB 381**, by Representative Burch:

Amend printed copy of Committee Substitute to **HB 381** on page 1, line 7.

By adding the following new sections:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

For purposes of eligibility for aid to families with dependent children, "aid to families with dependent children standard of need" means the poverty income level by size of family unit, as annually issued by the U.S. department of health and human services, minus the combined value of the state's average medicaid utilization *for a given family size plus the value of U.S. food stamps for a given family size.*

Section 3. KRS 205.200 is amended to read as follows:

(1) A needy aged person, a needy blind person, a needy child, a needy permanently and totally disabled person, or a person with whom a needy child lives shall be eligible to receive a public assistance grant only if he has made a proper application or an application has been made on his behalf in the manner and form prescribed by regulation. No individual shall be eligible to receive public assistance under more than one (1) category of public assistance for the same period of time.

(2) The secretary shall, by regulations, prescribe the conditions of eligibility for public assistance in conformity with the public assistance titles of the social security act, its amendments and other federal acts and regulations. *The secretary shall also promulgate regulations to allow for between a forty percent (40%) and a forty-five percent (45%) ratable reduction in the method of calculating eligibility and benefits for aid to families with dependent children. In no instance shall grants to families with no income be less than the appropriate aid to families with dependent children grant maximum. As used in this section, "ratable reduction" means the percentage reduction applied to the deficit between the family's countable income and the standard of need for the appropriate family size.*

(3) The secretary may by regulation prescribe as a condition of eligibility that a needy child regularly attend school, and may further by regulation prescribe the degree of relationship of the person or persons in whose home such needy child must reside.

(4) The secretary may be regulation prescribe conditions for bringing paternity proceedings or actions for support in cases of out of wedlock birth or nonsupport by a parent in the aid to families with dependent children program.

(5) Public assistance shall not be payable to or in behalf of any individual who has taken any legal action in his own behalf or in the behalf of others with the intent and purpose of creating eligibility for such assistance.

(6) The cabinet shall promptly notify the appropriate law enforcement officials of the furnishing of aid to families with dependent children in respect to a child who has been deserted or abandoned by a parent.

(7) No person shall be eligible for public assistance payments if, after having been determined to be potentially responsible, and afforded notice and opportunity for hearing, he refuses without good cause:

(a) To register for employment with the state employment service,

(b) To accept suitable training, or

(c) To accept suitable employment.

The secretary may prescribe by regulation standards of suitability for training and employment.

(8) To the extent permitted by federal law, scholarships, grants or other types of financial assistance for education shall not be considered as income for the purpose of determining eligibility for public assistance.

(9) The cabinet shall include a special needs allowance to recipients of aid to families with dependent children for costs associated with education and training, limited to transportation to and from training or educational programs and child care costs necessary for participation in education and training programs. The cabinet shall promulgate administrative regulations setting forth the special needs which will be recognized and the circumstances under which they will be included, the amount of special needs allowances and the length of time recipients may receive such allowances. Such regulations shall provide that work expenses and child care costs resulting from employment in an employment search program or a community work experience program shall not be special needs.

SECTION 4. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet for human resources shall take all necessary actions to ensure that at least five percent

(5%) of all adults receiving aid to families with dependent children benefits as of the effective date of this Act, shall, by July 1, 1989, be enrolled and participating in college, or a vocational training program, or a GED program, or employed and working not less than twenty-three (23) hours per week. For each year after July 1, 1989, the cabinet shall move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment until the total number of adult recipients employed or in training or education programs reaches twenty percent (20%) of total recipients. In meeting this goal, the cabinet shall not count any adult recipient leaving the aid to families with dependent children program for reasons other than entering an education or training program or receiving a job.

(2) The cabinet shall file an annual report to the legislative research commission and the interim joint committee on health and welfare documenting the results of the cabinet's efforts to move aid to families with dependent children recipients into training or education programs and employment, and meeting the goals set forth in subsection (1) of this section. The report shall also include a plan reflecting what actions are being taken to meet these goals. The cabinet shall take into account the following factors to determine compliance with the goals set forth in subsection (1):

(a) Adults aged sixty (60) shall not be included;

(b) Adults receiving aid to families with dependent children shall not be included;

(c) For purposes of meeting the criteria related to employed or working not less than twenty-three (23) hours per week, adults shall be considered if the aid to families with dependent children was discontinued during the reporting period for earned income and such case has remained closed for not less than ninety (90) days.

(3) If the cabinet fails to meet the goal of moving five percent (5%) of current aid to families with dependent children recipients into education or training programs or employment by July 1, 1989, and an additional one percent (1%) by July 1, 1990, the general fund share of the cabinet's cost of administering the aid to families with dependent children program shall be reduced by a percentage or portion thereof equal to the percentage by which the cabinet fails to meet the goals set forth in subsection (1) of this section. The reduction in general fund share shall continue in the same manner if the cabinet fails to move an additional one percent (1%) of aid to families with dependent children recipients into education or training programs or employment.

Section 5. The secretary of human resources is directed to implement Sections 2 and 3(2) of this Act at the earliest possible date but no later than October 1, 1989."

Floor Amendment No. 4 to Committee Substitute to **HB 452**, by Representative Hourigan:

Amend printed copy of Committee Substitute to **HB 452** on page 11, lines 12-18, to delete the same and insert in lieu thereof:

"*(43)* [~~(33)~~] "Secure juvenile detention facility" means any facility used for the secure detention of children *including* [~~other than~~] a jail, [~~police station,~~] lock-up, *or* intermittent holding facility *which is entirely separated from sight and sound from all other portions of the jail containing adult prisoners* [~~; or any building which is a part of or attached to any facility in which adult prisoners are confined or which shares staff with a facility in which adult prisoners are confined~~]"; and

On page 179, lines 17-23, to delete the same and insert in lieu thereof:

"*(4)* "*Secure* juvenile detention *facility* [~~center~~]" means any facility used for the secure detention of children *including* [~~other than~~] a jail, [~~police station,~~] lock-up, intermittent holding facility, or any building which is a part of or attached to any facility in which adult prisoners are confined *which is entirely separated from sight and sound from all other portions of the jail containing adult prisoners* [~~or which shares staff with a facility in which adult prisoners are confined~~]."

Floor Amendment No. 1 to **HB 472**, by Representative Lundergan:

Amend printed copy of **HB 472** on page 1, line 7, after "corporation." by adding the following: "*The corporation shall be organizationally attached to the finance and administration cabinet for administrative and reporting purposes as contemplated by KRS 12.020.*"

On page 3, line 1, by placing a bracket before the word "The" and after the word "corporation", on line 4, striking through the language in between, and inserting in lieu thereof the following: "*The board shall be authorized in its discretion to appoint an executive director to manage the affairs of the corporation subject to the policies, control and direction of the board, who may be either the executive director of the Kentucky higher education assistance authority or another.*"

On page 4, after line 23, by inserting the following: "*(13) Subsection (12) of this section and the provisions of KRS Chapter 18A notwithstanding, the board may employ or contract for the services of fiscal and other kinds of consultants, attorneys, counselors, and such other employes as may be required in the judgement of the board to carry out the purposes of this Act and fix and pay their compensation from any funds available to the corporation.*"

Floor Amendment No. 1 to Committee Substitute to **HB 513**, by Representative Strong:

Amend printed copy of Committee Substitute to **HB 513** on page 2, by deleting lines 19-21 in their entirety;

On page 2, line 22, by deleting "*(d)*" and inserting "*(c)*" in lieu thereof;

On page 2, line 23, after ";" by inserting "*or*";

On page 2, line 24, by deleting "*(e)*" and inserting "*(d)*" in lieu thereof;

On page 2, line 26, by deleting ";" and inserting "." in lieu thereof; and

On page 3, by deleting lines 1 through 8 in their entirety.

Floor Amendment No. 1 to Committee Substitute to **HB 516**, by Representative Farrow:

Amend printed copy of Committee Substitute to **HB 516** on page 38, line 25, by deleting "$1,582,800 and inserting in lieu thereof "$6,586,000";

line 26, by deleting "$1,635,100 and inserting in lieu thereof "$6,801,900";

On page 39, line 13, by deleting "$2,616,600" and inserting in lieu thereof "$7,619,800";

line 14, by deleting "$2,611,000 and inserting in lieu thereof "$7,777,800";

On page 40, line 18, by deleting "$7,212,500" and inserting in lieu thereof "$5,212,500";

On page 43, line 26, by deleting "$233,591,500 and inserting in lieu thereof "$231,591,500";

On page 44, line 1, by deleting "$248,733,900 and inserting in lieu thereof "$244,733,900";

On page 45, line 24, by deleting "$555,118,200" and inserting in lieu thereof "$551,118,200";

line 25, by deleting "$581,564,400" and inserting in lieu thereof "$577,564,400".

On page 73, line 15, by deleting "$546,000 and inserting in lieu thereof "$591,000";

line 16, by deleting "$540,600 and inserting in lieu thereof "$586,900";

Floor Amendment No. 2 to Committee Substitute to **HB 516**, by Representative Farrow:

Amend printed copy of Committee Substitute to **HB 516** on page 38, line 22, by deleting "$289,700" and inserting in lieu thereof "$875,400";

line 23, by deleting "$305,900" and inserting in lieu thereof "$901,400";

line 25 by deleting "$1,582,800" and inserting in lieu thereof "$6,606,500";

line 26, by deleting "$1,635,100 and inserting in lieu thereof "$6,813,900;

On page 39, line 2, by deleting "$200,000" and inserting in lieu thereof "$287,300";

line 3, by deleting "$100,000" and inserting in lieu thereof "$190,400";

line 10, by deleting "$544,100" and inserting in lieu thereof "$777,400";

On page 39, line 11, by deleting "$570,000" and inserting in lieu thereof "$819,500";

line 13, by deleting "$2,616,600" and inserting in lieu thereof "$8,546,600";

line 14, by deleting "$2,611,000" and inserting in lieu thereof "$8,625,200";

On page 40, line 18, by deleting the amount "$7,212,500" and inserting in lieu thereof the amount "$5,212,500";

On page 43, line 26, by deleting $233,591,500" and inserting in lieu thereof "$231,591,500";

On page 44, line 1, by deleting the amount "$248,733,900" and inserting in lieu thereof the amount "$244,733,900";

On page 45, line 24, by deleting the amount "$555,118,200" and inserting in lieu thereof the amount "$551,118,200";

line 25, by deleting the amount "$581,564,400" and inserting in lieu thereof the amount "$577,564,400".

On page 73, line 15, by deleting "$546,000" and inserting in lieu thereof "$591,000";

line 16, by deleting "$540,600" and inserting in lieu thereof "$586,900";

Floor Amendment No. 3 to Committee Substitute to **HB 516**, by Representative Hancock:

Amend printed copy of Committee Substitute to **HB 516** on page 163, on line 24, after the word "personnel" and before the period "." by adding the following language:

, and also to provide for an annual two percent (2%) increment in each fiscal year for the cost-of-living allowance for retired teachers and each recipient of a retirement option of the retired member, subject to the provisions of KRS 161.620. Included in the above figures is the sum $3,750,0000 in fiscal year 1988-89 for the two percent (2%) increment and the sum of $7,600,000 in fiscal year 1989-90 for the additional two percent (2%) increment.

Floor Amendment No. 4 to Committee Substitute to **HB 516**, by Representative Hancock:

Amend printed copy of Committee Substitute to **HB 516** on page 164, after line 15, by adding the following language:

"4a. If at the close of fiscal year 1988-89 it is found that General Fund receipts for fiscal year 1988-89 exceeded the sum of the official General Fund receipts as enacted for the same fiscal year and an amount equal to two percent (2%) of such final official General Fund receipts, such excess is hereby appropriated for fiscal year 1989-90 to each budget unit in an amount sufficient to provide up to an additional three percent (3%) annual salary increment in fiscal year 1989-90 for non-elected personnel of state government subject to the provisions of KRS 18A.355, the 1988-90 judicial budget act and the 1988-90 legislative budget act.

b. Funds appropriated under the provisions of paragraph a. above, are in addition to funds otherwise appropriated in this Act and other general appropriation bills for fiscal year 1989-90 for salaries for non-elected personnel of state government.

c. Monies are hereby appropriated to the extent required from agency and federal funds consistent with this section for their prorated share of the additional annual salary increment under the provisions of paragraph a. above."

Floor Amendment No. 5 to Committee Substitute to **HB 516**, by Representative Donnermeyer:

Amend printed copy of Committee Substitute to **HB 516** on page 165, lines 9, 10, and 11, by deleting the following language:

"2. Division of Plumbing (KRS 318.134, 318.136,138.180)"	$250,000	$250,000

And renumber succeeding provisions to conform.

Floor Amendment No. 1 to **HB 523**, by Representative Ackerson:

Amend printed copy of **HB 523** on page 5, line 17, after "*in*" insert "*high*" and delete "*college,*"; and

On page 5, line 18, delete all underlined language before "*child*"; and

On page 5, line 21, after "*graduates*" insert "*from high school*" and insert after "*his*" the words "*high school*".

Floor Amendment No. 2 to **HB 574**, by Representative Blevins:

Amend printed copy of **HB 574** on page 2, line 6, by inserting after the word "*guardian*" the following: "*, if the matter for which the services are sought involves alleged physical or sexual abuse by a parent or guardian whose consent would otherwise be required*".

Floor Amendment No. 4 to **HB 630**, by Representative Lear:

Amend printed copy of **HB 630** on page 2, after line 17, by inserting the following:

"Section 4. It is proposed that Section 256 of the Constitution of Kentucky be amended to read as follows:

Amendments to this Constitution may be proposed in either House of the General Assembly at a regular session, and if such amendment or amendments shall be agreed to by three-fifths of all the members elected to each House, such proposed amendment or amendments, with the yeas and nays of the members of each House taken thereon, shall be entered in full in their respective journals. Then such proposed amendment or amendments shall be submitted to the voters of the State for their ratification or rejection at the next general election for members of the House of Representatives, the vote to be taken thereon in such manner as the General Assembly may provide, and to be certified by the officers of election to the Secretary of State in such manner as shall be provided by law, which vote shall be compared and certified by the same board authorized by law to compare the polls and give certificates of election to officers for the State at large. If it shall appear that a majority of the votes cast for and against an amendment at said election was for the amendment, then the same shall become a part of the Constitution of this Commonwealth, and shall be so proclaimed by the Governor, and published in such manner as the General Assembly may direct. Said amendments shall not be submitted at an election which occurs less than ninety days from the final passage of such proposed amendment or amendments. [~~Not more than four amendments shall be voted upon at any one time.~~]If two or more amendments shall be submitted at the same time, they shall be submitted in such manner that the electors shall vote for or against each of such amendments separately, but an amendment may relate to a single subject or to related subject matters and may amend or modify as many articles and as many sections of the Constitution as may be necessary and appropriate in order to accomplish the objectives of the amendment. The approval of the Governor shall not be necessary to any bill, order, resolution or vote of the General Assembly, proposing an amendment or amendments to this Constitution.";

And on page 2, line 18, after "Section" by deleting "4" and inserting in lieu thereof "5".

Floor Title Amendment No. 4 to **HB 630**, by Representative Lear:

Amend printed copy of **HB 630** by amending the title to read as follows:

"AN ACT proposing to amend Sections 71, 82, 93 and 256 of the Constitution of Kentucky relating to terms of elected officials.".

Floor Amendment No. 1 to Committee Amendment No. 1 to **HB 706**, by Representative Gregory:

Amend printed copy of Committee Amendment 1 to **HB 706** on page 3, line 9, after the "." by inserting the following language: "*The cabinet shall not permit the erection of any sign pursuant to this subsection within six hundred sixty (660) feet of highway rights-of-way.*"

Floor Amendment No. 2 to **HB 706**, by Representative Gregory:

Amend printed copy of **HB 706** on page 6, line 17, after the word "*located*" by deleting the word "*within*".

On page 6, line 23, after the word "*lines*" by deleting the word "*within*".

Floor Amendment No. 3 to **HB 706**, by Representative Morris:

Amend printed copy of **HB 706** on page 5, line 9, by bracketing and striking through the words "commissioner of highways" and inserting in lieu thereof the words "*secretary of the tourism cabinet*"; and

On page 7, line 3, by bracketing and striking through the words "commissioner of highways" and inserting in lieu thereof the words "*secretary of the tourism cabinet*"; and

On page 8, after line 2, by adding the following:

Section 5. KRS 177.867 is amended to read as follows:

(1) The *secretary of the tourism cabinet* [~~secretary of the department of transportation~~] is authorized to acquire by purchase, gift, or condemnation pursuant to the Eminent Domain Act of Kentucky and shall pay just compensation upon the removal of the following advertising devices:

(a) Those lawfully in existence on October 22, 1965;

(b) Those lawfully on any highway designated a part of the interstate or federal-aid primary system on or after October 22, 1965, and before January 1, 1968;

(c) Those lawfully erected on or after January 1, 1968; and

(d) Those lawfully in existence on January 1, 1976.

(2) Compensation shall be paid for the following:

(a) The taking from the owner of any such advertising device of all right, title, leasehold, and interest in such advertising device; and

(b) The taking from the owner of the real property on which the advertising device is located, of the right to erect and maintain such advertising devices thereon.

Section 6. KRS 177.870 is amended to read as follows:

Any advertising device erected, maintained, replaced, relocated, repaired or restored in violation of KRS 177.830 to 177.890 is hereby declared to be, and is, a public nuisance and such device may without notice be abated and removed by any officer or employe of the *tourism cabinet* [~~state bureau of highways~~] or upon request of the commissioner by any peace officer.

Section 7. KRS 177.890 is amended to read as follows:

The *secretary of the tourism cabinet* [~~commissioner of highways~~] is hereby authorized to enter into agreements with the United States secretary of transportation for the purpose of carrying out the national policy of promoting the safety, convenience and enjoyment of public travel and the free flow of interstate commerce and the protection of the public investment in the national system of interstate and defense highways and federal-aid primary highways within the commonwealth.

Section 8. The Reviser of statutes shall renumber KRS 177.830 through 177.890 appropriately.

Floor Amendment No. 2 to **HB 764**, by Representative Hancock:

Amend printed copy of **HB 764** on page 41, line 23, by inserting "*1988*" after "July 1," and placing brackets around and striking through "1986";

On page 41, line 24, by inserting "*1987*" after "July 1," and placing brackets around and striking through "1985";

On page 41, line 26, by inserting "*two percent (2%)*" and placing brackets around and striking through "one percent (1%)";

On page 42, lines 1 and 2, by placing brackets around and striking through "for each year the member has been retired up to a maximum of five (5) years";

On page 42, line 6, by inserting "*1989*" after "July 1," and striking through and placing brackets around "1987";

On page 42, line 7, by inserting "*1988*" after "July 1," and striking through and placing brackets around "1986";

On page 42, line 9, by inserting "*two percent (2%)*" and striking through and placing brackets around "three percent (3%).

Floor Amendment No. 2 to **HB 788**, by Representative Richards:

Amend printed copy of **HB 788** on page 1, line 15, by deleting "*1988*" and by deleting the brackets and strike throughs of "1986"; and

on page 1, line 18, by deleting "*forty-five hundredths percent (2.45%)*" and by deleting the opening bracket and the strike throughs; and

on page 1, line 19, by deleting the closing bracket and the strike throughs; and

on page 1, line 21, by deleting "*or*"; and

on page 2, line 1, by deleting "*Kentucky employes retirement system*"; and

on page 3, line 11 and continuing to page 5, line 14, by deleting Section 2. of the bill; and

on page 5, line 20, by inserting after "*(2%)*" the words "*for the county employes retirement system and one and ninty-one hundredths percent (1.91%) for the Kentucky employes retirement system*; and on page 8, line 18 and continuing to page 11, line 19, by deleting Section 4. of the bill; and

on page 11, line 20 and continuing to page 18, by deleting Section 5. of the bill; and

on page 5, line 15, by renumbering Section 3. to read "Section 2.".

Floor Amendment No. 2 to **HB 875**, by Representative Barrows:

Amend printed copy of **HB 875** on page 3, line 20, following the word "*after*" delete "*referral to*" and insert "*considering*"; and

On page 3, line 21, place a "]" after the word "[~~with~~" and delete the strikethroughs and bracket in "~~the recommendations of~~]; and

On page 10, line 10, delete "*meet*" and delete the bracket and strikethroughs; and

On page 10, line 11, delete the strikethroughs and brackets; and

On page 12, line 9, delete "*and*" and delete the bracket and strikethroughs; and

On page 12, line 10, delete the strikethroughs and the bracket; and

On page 12, line 11, delete "*with regard to the following*" and delete the bracket and strikethrough; and

On page 12, lines 12 through 14, delete the bracket and strikethroughs; and

On page 13, line 2, delete ";" and delete the bracket and strikethrough; and

On page 13, lines 3 through 6, delete the bracket and strikethroughs; and

On page 13, line 7, delete "*d*" and delete brackets and strikethroughs; and

On page 13, line 11, delete "*e*" and delete the brackets and strikethroughs; and

On page 14, delete lines 1 through 3.

Floor Amendment No. 1 to **HB 907**, by Representative Callahan:

Amend printed copy of **HB 907** on page 2, line 8, after the word "*approval*" by inserting the following:

"*and upon completion of construction in that phase of the subdivision,*".

Floor Amendment No. 1 to **HB 959**, by Representative L. Clark:

Amend printed copy of **HB 959** on page 5, line 20, after the word "*corporation*" insert the word "*except*".

Floor Amendment No. 1 to **HB 989**, by Representative Morris:

Amend printed copy of **HB 989** on page 4, by inserting after line 4, the following: "Section 2. KRS 141.021 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 141.010, federal military retirement annuities *other than those set out in subsection (2) of this section* shall be excluded from the gross income of persons fifty (50) years of age or older, and federal retirement annuities shall be excluded from the gross income of persons receiving annuities from a federal retirement system and who are fifty (50) years of age or older, subject to the following

limitations:

If Earned Income From Sources Other Than Annuities Described Above Is:	The Maximum Annuity Exclusion Is:
$3,000 or Less	$4,000
3,001 to 4,000	3,000
4,001 to 5,000	2,000
5,001 to 6,000	1,000
Over 6,000	0

(2) Notwithstanding the provisions of KRS 141.010 or the provisions of subsection (1) of this section, federal military retirement annuities shall be excluded from the gross income of persons who have retired from the federal military when at the time of such retirement the individual was on active duty and was stationed in the Commonwealth of Kentucky."; and

on page 4, line 5, by changing "2" to "3".

Floor Amendment No. 1 to Committee Substitute to **HB 1022**, by Representative Lear:

Amend printed copy of Committee Substitute to **HB 1022** on page 9, lines 1 and 2, after "amendments." the first time it appears by placing brackets around and striking through "Not more than four amendments shall be voted upon at any one time."

Floor Amendment No. 2 to Committee Substitute to **HB 1022**, by Representative Will:

Amend printed copy of Committee Substitute to **HB 1022** page 3, line 16, after "Section 6." by inserting:

"It is proposed that Section 144 of the Constitution of Kentucky be amended to read as follows:

Counties shall have a Fiscal Court, which may consist of the Judge of the County Court and the Justices of the Peace, in which Court the Judge of the County Court shall preside, if present; or a county may have three commissioners, [~~to be elected from the county at large,~~] who, together with the Judge of the County Court, shall constitute the Fiscal Court. A majority of the members of said Court shall constitute a Court for the transaction of business. But where, for county governmental purposes, a city is by law separated from the remainder of the county, such Commissioners may be elected from the part of the county outside of such city.

Section 7."; and

By renumbering the remaining sections of the bill; and

On page 4, line 25, by placing an opening bracket before "When" and by striking through "When any city of the first or second class"; and

By striking through line 26; and

On page 5 by striking through lines 1-12; and

On line 13 by striking through "shall be qualified."; and

By placing a closing bracket after "qualified.".

Floor Amendment No. 3 to Committee Substitute to **HB 1022**, by Representative B. Smith:

Amend printed copy of Committee Substitute to **HB 1022** on page 6, line 17, by adding at the end of the line, "*ninety-two*"

and on line 18 by deleting "*ninety-eight*".

The Clerk announced the following meetings:

The Committee on Cities, March 17, 1988, 9:00 a.m.

The Committee on Rules, Speaker's Office, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., Thursday, March 17, 1988.

The motion that the House adjourn until 2:00 p.m., Thursday, March 17, 1988 was adopted by voice vote.

THURSDAY, MARCH 17, 1988

FORTY-SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Gerald Smith, Northside Baptist Church, Lexington, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Deskins, Keith and Lefevers.

Representative McElroy moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative McElroy moved that the reading of the Journal of March 16, 1988 be dispensed with and the same approved. Agreed.

Senate Message

Announcing the passage of **SB 37**, **SB 194**, **SB 306**, **SB 309**, **SB 316**, **SB 324**, **SB 328**, **SB 333**, **SB 377**, **SB 392**, **SJR 17**, **HB 240** with Senate Committee Substitute and **HB 223**.

Representative Adkins moved the rules be suspended to act upon Legislative Citations. Agreed.

Representative Adkins moved the adoption of Legislative Citations No. 91 and No. 92. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Betty Jones and Peggy Martin. As sponsors of the Boyd County Varsity Cheerleading Squad, you have refined the skills of the squad so that their finely tuned talents awarded them First Runner-Up in the National Universal Cheerleaders Association competitions.

Under your guidance, Betty and Peggy, the squad has also achieved First Place in the Second Annual King's Island Cheerleaders competition, First Runner-Up at the Kentucky State Fair Cheerleaders competition, and Regional Champions of the Universal Cheerleaders Association competition. Members of the House of Representatives honor you as outstanding Kentuckians for your contribution to the Commonwealth and Boyd County. (Sponsored by Representative Adkins)

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors Candi Johnson, a member of the Boyd County Varsity Cheerleading Squad for your outstanding contribution to the squad which has enabled your team to achieve national recognition for their talent.

You, Candi, have committed yourself to long hours of hard work to obtain for yourself and your team this coveted recognition for Boyd County and Kentucky. As a result of your teams dedication, you have secured First Place in the Second Annual King's Island Cheerleaders competition, First Runner-Up at the Kentucky State Fair Cheerleaders competition, and Regional Champions of the Universal Cheerleaders Association competition, in addition to being First Runner-Up in the National Universal Cheerleaders Associations competitions. Members of the House of Representatives honor you as an Outstanding Kentuckian for your contribution to the Commonwealth and Boyd County. (Sponsored by Representative Adkins)

Representative Maggard moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Maggard moved the adoption of Legislative Citation No. 89. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Angel Stevens, a very special citizen of Breathitt County. Whereby Angel has brought honor to her county, her school and her family with her outstanding academic record and her superior performance as an athlete. Whereby her appointment to the National Honor Society with a 3.7 Grade Point Average, in addition to being named to the Girls All State Basketball Team, Regional Final All Tournament Team and the recipient of the Joe Mansfield Award at the State Basketball Tournament Playoff, brought her a bid from the University of Kentucky's Women's Basketball Team. Angel Stevens, your extraordinary drive and ambition, your academic excellence and your sterling character have created for you a special place in the hearts of Breathitt Countians and the admiration of the House of Representatives. The University of Kentucky Basketball program is fortunate to have a student of your caliber. (Sponsored by Representative Maggard)

Introduction of Resolutions

HR 169, by Representatives Crupper, Reinhardt, Gray, Todd, Gedling, Napier, Arnold, Farrow, McElroy, Lyne, Turner, Altman and B. Smith: A RESOLUTION honoring Charles E. Barnhart.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **SB 331**.

Banking and Insurance: **SB 285, SB 284, SB 329**.

Cities: **SB 376**.

Counties and Special Districts: **SB 219**.

Education: **SB 42, SJR 71, SCR 70, SB 326, SB 303**.

Judiciary-Civil: **SB 241**.

State Government: **SB 119, SB 268**.

Transportation: **SB 277, SB 242**.

Report of Committees

The Committee on Rules reported **HB 228, HB 630, HB 902, HB 917, HB 510, HB 534, HB 584, HB 620, HB 725, HB 788, HB 852, HB 883, HB 907, HB 649, HB 704, HB 723, HJR 126, HB 174, HB 224, HB 566, HB 706, HB 748, HB 805, HB 1022** and **HB 176** have been posted for passage in Orders of the Day, March 18, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 18, 1988: **HB 809, HB 910**.

The Committee on Rules reported the following Bills have been recommitted:

Appropriations and Revenue: **HB 290, HB 993, HB 356, HB 419, HB 383, HB 829**.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills have been posted for Committee consideration:

State Government: **SB 215, HB 922**.

Energy: **HB 758**.

Representative Turner moved the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Turner moved the adoption of Legislative Citation No. 94. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes with profound compassion and sincerely regrets the passing of T. C. Simmons on March 11, 1988, at the age of 84. He was a respected member of this prestigious body from the 22nd District for three consecutive terms, beginning in 1968. Simmons was a high school principal for 38 years. He taught school in rural Monroe and Allen Counties and his unique ways of handling children are still talked about today. He was a member of the Kentucky Retired Teachers' Association, the National Education Association and White Plains Baptist Church.

This prestigious body mourns the passing of T. C. Simmons and extends sincere sympathy to his entire family. As we adjourn today we do so in grateful appreciation of his contributions to the Commonwealth and in his memory. (Sponsored by Representative Turner)

Report on Enrolled Bills

The Committee on Enrollment reported **HB 576**, **HB 453** and **HB 227** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 2:14 p.m.)

HB 576, **HB 453** and **HB 227** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Report of Committees

The Committee on Agriculture and Small Business reported **SJR 50** and **HB 896** with Committee attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SJR 50, A JOINT RESOLUTION establishing the Tobacco Exhibition Center in Nelson County.

WHEREAS, the cultivation, manufacture, and sale of tobacco have played a central role in the history and economy of Kentucky; and

WHEREAS, tobacco is Kentucky's most important cash crop, at the heart of Kentucky agriculture, and the economy of the state, contributing hundreds of millions of dollars in income and tax revenues; and

WHEREAS, Kentucky is the leading producer of burley in the world, a leading producer in total tobacco grown, and a leading manufacturer of tobacco products; and

WHEREAS, tobacco is the largest cash crop of most Kentucky farmers; and

WHEREAS, tobacco played a major role in the settlement and history of Kentucky; and

WHEREAS, Nelson County is the home of My Old Kentucky Home, the plantation immortalized in the song of that title; and

WHEREAS, Nelson County long has recognized the importance of tourism and is in an excellent position to promote tobacco as a vital part of Kentucky's economy and history; and

WHEREAS, the people of Nelson County are committed to establishing the state's official tobacco exhibition center;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That there be established the official Kentucky Tobacco Exhibition Center celebrating and documenting the contributions of tobacco to the history and economy of the Commonwealth and the role of Nelson County in tobacco's growth, manufacturing, and sale in the state.

Section 2. That the Kentucky Tobacco Exhibition Center be located in Nelson County.

HB 896, AN ACT relating to coyotes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 150 IS CREATED TO READ AS FOLLOWS:

(1) The purpose of this Act shall be to empower the department of fish and wildlife resources with the authority and responsibility to control the coyote population in any county or geographic area where coyotes are found to have killed or damaged livestock or poultry. Uncontrolled coyote populations are hereby declared to be a public nuisance which shall be controlled to promote the stability of agriculture within the Commonwealth.

(2) The commissioner of the department shall establish a coyote control zone in any county or geographic area where coyotes are found to have killed or damaged livestock or poultry. For the purpose of implementing the provisions of this Act, duly designated representatives of the department may enter at reasonable times on public or private land for the purpose of conducting surveys, investigations, and control.

(3) Prior to the implementation of a coyote control zone, the commissioner shall make the following determinations:

(a) That an owner of livestock or poultry has requested in writing that the department establish a coyote control zone within a specifically defined geographic area;

(b) That coyotes have killed or damaged livestock or poultry within the specified area;

(c) That the population of coyotes within the area presents a potential danger to other livestock or poultry;

(d) That the establishment of a coyote control zone will eliminate or diminish the potential danger;

(e) That a coyote control zone will not present a hazard to human beings or their property; and

(f) That there are sufficient state funds to pay for a control program within the designated coyote control zone.

(4) A written request to establish a coyote control zone shall contain the information and be made upon the forms the department prescribes. The commissioner shall notify the commissioner of the department of agriculture that a written request to establish a coyote control zone has been made within ten (10) days after the filing of a written request with the department. The commissioner shall provide the commissioner of agriculture with written findings of fact regarding the criteria set out in subsection (3) of this section and a proposed determination on each written request to establish a coyote control zone at least ten (10) days before the commissioner's final determination.

(5) If the commissioner finds that the criteria set out in subsection (3) of this section have been met, he shall determine whether measures of control are needed and are available and the area over which the coyote control zone measures shall be applied. He shall prescribe the proposed coyote control zone in which control measures are to be applied, and shall publish notice of the proposal, as required by law. The notice shall include a brief description of the location of the proposed coyote control zone and the approximate time when control measures will be executed.

(6) The commissioner may apply measures for coyote population control within the zone on public land and with the landowners written permission on private lands within the Commonwealth. He may enter into agreements with owners of these lands covering the control work on their land and fix the pro rata basis on which the cost of the work shall be shared between the Commonwealth and the owner.

(7) The commissioner may employ personnel, procure equipment, supplies and services, and enter into contracts in the name of the Commonwealth for work or services required by the coyote control program. The commissioner shall not enter into any contract with an independent contractor to procure the services required by this program unless he first determines that the independent contractor possesses the skill and experience required to carry out the coyote population control, and that the independent contractor has secured liability insurance in an amount determined by the commissioner sufficient to compensate for any loss which results from the independent contractor's negligence. However, a contract for coyote depopulation services may not exceed fifty dollars ($50) per day.

(8) All moneys collected pursuant to the provisions of this Act, including the funds that may be contributed or paid by the federal government or any other public or private agency, organization or individual, shall be placed in the state treasury to the credit of a revolving, trust or agency fund account for use by the department in carrying out the provisions of this Act.

(9) The commissioner may cooperate with the federal government or agencies thereof, or other agencies of the Commonwealth, county or municipal governments, agencies of neighboring states, or other public or private organizations, or individuals and may accept such funds, equipment, supplies or services from these organizations as may be deemed appropriate. The commissioner may provide in agreements with the federal government or its agencies for matching of federal funds as may be required. The commissioner may prescribe administrative regulations for carrying out the purposes of this Act.

The Committee Amendment No. 1 to **HB 896** is as follows:

Amend printed copy of **HB 896** on page 4, line 9, after "*day*" add "*and fifty dollars ($50) per coyote certified by the department to have been killed by the contractor*"; and

On line 16, after "*Act.*" add "*No more than twenty-five thousand dollars ($25,000) per fiscal year shall be used from the department's agency fund for depopulation services.*"

The Committee on Agriculture and Small Business reported **HB 358**, **HB 753**, and **HB 853** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 358, AN ACT relating to thistles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 249.190 is amended to read as follows:

If any person who holds land on which Canada or nodding thistles are growing and likely to ripen seed, neglects or refuses to cut and destroy them, any person who considers himself aggrieved or about to be injured by the neglect or refusal, or the commissioner of agriculture pursuant to subsection (2) of KRS 249.183, shall give five (5) days' notice in writing to the person who holds the land, to cut and destroy the Canada or nodding thistles. On the neglect or refusal of the person who holds the land to cut and destroy them at the end of five (5) days, any person aggrieved, or believing himself about to be injured, or the commissioner of agriculture may enter upon or hire other persons to enter upon the land and cut down and destroy the Canada or nodding thistles. The persons so employed may recover from the person who holds the land *the reasonable costs of the eradication*[~~, compensation at the rate of fifteen dollars ($15.00) per day~~].

Section 2. KRS 249.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 249.020 to 249.100 or hinders the carrying out of any of the provisions of those sections shall be fined not less than twenty-five dollars ($25.00) nor more than five hundred dollars ($500).

(2) Any fine imposed for a violation of subsection (3) of KRS 249.070 may be recovered in the county in which the nursery is situated or the county to which the nursery stock is shipped.

(3) Any person who knowingly neglects or refuses to comply with the provisions of KRS 249.180 or 249.190

shall be fined *not less than fifty dollars ($50.00) nor more than five hundred dollars ($500). Each day of violation after the notice provided in KRS 249.190 shall be a separate offense* [~~five dollars ($5.00)~~].

Section 3. KRS 249.991 is amended to read as follows:

(1) Any person who interferes with or attempts to prevent the commissioner of agriculture from exercising any of his powers under KRS 249.183 to 249.195 shall be punished by a fine of not more than one thousand dollars ($1,000) or by imprisonment for not more than six (6) months.

(2) Any person who violates any regulation prescribed by the commissioner under KRS 249.183 to 249.195 shall be fined not *less than fifty dollars ($50.00) nor* more than five hundred dollars ($500) or imprisoned not more than six (6) months or both so fined and imprisoned. *Each day of violation after the notice provided in KRS 249.190 shall be a separate offense.*

HB 753, AN ACT relating to cruelty to animals.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.130 is amended to read as follows:

(1) A person is guilty of cruelty to animals in the second degree when except as authorized by law he intentionally or wantonly:

(a) Subjects any animal to or causes cruel or injurious mistreatment through abandonment, participates other than as provided in KRS 525.125 in causing it to fight for pleasure or profit, (including, but not limited to being a spectator or vendor at an event where a four-legged animal is caused to fight for pleasure or profit) mutilation, beating, torturing, tormenting, failing to provide adequate food, drink, space or health care, or by any other means; or

(b) Subjects any animal in his custody to cruel neglect; or

(c) Kills any animal.

(2) *If any act of cruelty to animals is committed, or permitted to exist, in the presence of any peace officer, or an officer or authorized agent of a humane society, and upon a complaint under oath being filed with the court, or discovered upon the issuance of a warrant, or search warrant, the court may immediately order that the animal, or animals, be removed from the premises or possession of the person so charged, and retained in the custody and control of the court for the purpose of protecting the animal until such time as the court has a hearing or a trial of the case. If a trial has not been held, a hearing shall be held within seventy-two (72) hours, weekends and holidays excluded, on the necessity for the continued protective detention of the animal. The court may, as a result of either a hearing or a trial, direct that the animal be placed in the temporary possession and control of some proper person, agency, or facility which will provide for adequate care and shelter of the animal. The reasonable expenses incurred may be required, by court order, to be paid by the person charged with a violation of this section.*

(3) The court may enter a permanent order removing the animal and making proper placement or disposition, as the court may deem proper, of the animal, upon conviction of the person so charged with an act of cruelty to animals under this statute, or related laws, or, if the court determines that the animal has been abandoned and the owner cannot be found or determined.

(4) Nothing in this section shall apply to the killing of animals:

(a) Pursuant to a license to hunt, fish or trap;

(b) Incident to the processing as food or for other commercial purposes;

(c) For humane purposes;

(d) For any other purpose authorized by law.

(5)[~~(3)~~] Cruelty to animals in the second degree is a Class A misdemeanor.

HB 853, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 251.610 is amended to read as follows:

For the purposes of KRS 251.410, 251.430, 251.440, 251.451, 251.490 and 251.600 to 251.740, unless the context requires otherwise:

(1) "Board" means the governing body of the Kentucky grain insurance corporation;

(2) "Claimant" means any producer or person who is a participant in the grain insurance program, and:

(a) Possesses warehouse receipts covering grain owned or stored by the grain dealer or warehouseman;

(b) Has written evidence of ownership, other than warehouse receipts, disclosing a storage obligation of a grain dealer or warehouseman, including scale tickets, settlement sheets and ledger cards;

(c) Has lent money to a grain dealer or warehouseman and was to receive a warehouse receipt as security for that loan but the grain dealer or warehouseman failed within twenty-one (21) days after receiving the loan moneys and no warehouse receipt was issued;

(d) Has surrendered warehouse receipts as a part of a grain sale transaction with the grain dealer or warehouseman who failed within twenty-one (21) days thereafter and the person surrendering the warehouse receipt was not fully paid therefor; or

(e) Possesses written evidence of the sale of grain to a failed grain dealer or failed grain warehouseman, not limited to scale tickets, settlement sheets, price later contracts, basis contracts or similar grain delivery contracts, but did not get fully paid therefor and who is unable to secure satisfaction of financial obligations due from a person licensed by the department of agriculture in accordance with the grain storage establishment license act and KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740;

(3) "Warehouseman" means an operator or the warehouse of an operator who stores grain for the public and is authorized to issue negotiable or both negotiable and nonnegotiable warehouse receipts;

(4) "Cooperative agreement" means any agreement made by the board with a person, local unit of government, state or federal agency or other states as may be reasonable and proper to carry out the provisions of KRS 251.410, 251.430, 251.440, 251.451, 251.490, and 251.600 to 251.740;

(5) "Commissioner" means the commissioner of the department of agriculture;

(6) "Corporation" means the Kentucky grain insurance corporation;

(7) "Department" means the department of agriculture of the Commonwealth of Kentucky;

(8) "Failure" means:

(a) An inability to financially satisfy a claimant in accordance with applicable statute or regulation and the time limits provided therein, if any;

(b) A declaration of insolvency;

(c) A revocation of license and leaving of outstanding indebtedness to claimants;

(d) A failure to pay claimants in the ordinary course of business where a bona fide dispute does not exist between a grain dealer or grain warehouseman and a customer;

(e) A failure to apply for license renewal;

(f) A denial of license renewal; or

(g) A voluntary surrendering of a license;

(9) "Fund" means the Kentucky grain insurance fund established by the corporation pursuant to KRS 251.640;

(10) "Grain" means corn, wheat, oats, rye, soybeans, barley and grain sorghums, popcorn, and other agricultural commodities as approved by the department;

(11) "Grain assets" means:

(a) All grain owned or stored by said failed grain dealer or failed warehouseman, including grain in transit which was shipped by the failed grain dealer or failed warehouseman and for which payment has not been received;

(b) Redeposited grain;

(c) Proceeds from sale of grain due or to become due;

(d) Equity, less any secured financing directly associated therewith, in assets in commodity exchange grain margin accounts;

(e) Moneys due or to become due, less any secured financing directly associated therewith, from any future contracts on any recognized commodity exchange;

(f) Other unencumbered funds or property or equity of the failed grain dealer or warehouseman in funds or property, wherever located, which can be directly traced as being from the sale of grain by the failed grain dealer or failed warehouseman. No funds, property, or equity in funds or property shall be deemed to be encumbered unless the encumbrance results from good and valuable consideration advanced by any secured party on a bona fide basis, and is not the result of the taking of such funds, property, or equity in such funds or property as additional collateral for an antecedent debt; or

(g) Other unencumbered funds, property, or equity in assets;

(12) "Grain dealer" means any person engaged in the business of buying grain from producers thereof for resale or for milling or processing. A producer of grain buying grain for his own use as seed or feed shall not be considered as being engaged in the business of buying grain for resale or for milling or processing;

(13) "Grain indemnity trust fund" or "trust fund" means a trust fund established by the commissioner;

(14) "Grain warehouseman" or "warehouseman" means any person who owns, controls, operates or manages any public grain warehouse in which grain is stored for a compensation and includes any grain warehouse licensed under the United States Warehouse Act that has entered into a cooperative agreement with the department;

(15) "Incidental grain dealer" means any grain dealer who purchases grain from producers only in connection with or as an incident to a feed milling operation and whose total purchases of grain during any fiscal year do not exceed *two hundred fifty* [~~one hundred~~] thousand dollars *($250,000)* [~~($100,000)~~];

(16) "Participant in the grain insurance program" means any producer or person who has contributed to the grain fund pursuant to KRS 251.640 and has never requested a refund, or has entered the program pursuant to KRS 251.642;

(17) "Person" means any person, grain dealer, warehouseman, partnership, firm, association, corporation, or other business organization;

(18) "Producer" or "grain producer" means the owner, tenant or operator of land who has an interest in and receives all or any part of the proceeds from the sale of the grain produced thereon;

(19) "Program" means the Kentucky grain insurance program;

(20) "United States Warehouse Act" means the United States Warehouse Act, enacted August 11, 1916, as amended;

(21) "Valid claim" means a claim arising from a failure of a grain dealer or warehouseman which occurs after July 13, 1984, and adjudicated valid by the department, less all credits and offsets; and

(22) "Warehouse receipt" means:

(a) A warehouse receipt issued under the Public Grain Warehouse and Warehouse Receipts Act in accordance with the uniform commercial code; or

(b) A warehouse receipt issued under the United States Warehouse Act, provided a cooperative agreement has been signed by the federal licensee and the department to authorize participation in the fund.

Section 2. KRS 251.720 is amended to read as follows:

(1) Any person engaged in the business of buying grain from producers for resale or for milling or processing shall first procure a license from the department as required by the board before transacting business. Such license shall expire on June 30, and shall be renewed annually. The annual license fee shall be based on the total annual volume handled as follows:

(a) From zero to six thousand (6,000) bushels, fifty dollars ($50);

(b) Six thousand (6,000) to one hundred thousand (100,000) bushels, one hundred dollars ($100);

(c) One hundred thousand (100,000) to two million (2,000,000) bushels, two hundred dollars ($200);

(d) Two million (2,000,000) to six million (6,000,000) bushels, three hundred dollars ($300);

(e) Six million (6,000,000) to ten million (10,000,000) bushels, four hundred dollars ($400); or

(f) Over ten million (10,000,000) bushels, five hundred dollars ($500).

(2) The fee for each license shall be deposited in a trust and agency fund account in the state treasury to be used for carrying out the provisions of KRS 251.410 to 251.510.

(3) Every person licensed as a grain dealer shall file with the department a surety bond signed by the dealer as principal and by a responsible company authorized to execute surety bonds within the Commonwealth of Kentucky. A grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee or an irrevocable letter of credit on forms prescribed by the commissioner. The principal amount of the certificate or letter of credit shall be the same as that required for a surety bond under this section, and the interest thereon if any shall be made payable to the purchaser. The bond shall be a principal amount, to the nearest one thousand dollars ($1,000), equal to ten percent (10%) of the aggregate dollar amount paid by the dealer to producers for grain purchased from them during the dealer's last completed fiscal year, or in the case of a dealer who has been engaged in business as a grain dealer for less than one (1) year or who has not theretofore engaged in such business, ten percent (10%) of the estimated

aggregate dollar amount to be paid by the dealer to producers for grain purchased from them during the next fiscal year. Such bond shall not be less than twenty-five thousand dollars ($25,000) nor more than one hundred thousand dollars ($100,000), except as otherwise authorized by this section. Any grain dealer may file with the department, in lieu of a surety bond, a certificate of deposit payable to the commissioner, as trustee or an irrevocable letter of credit on forms prescribed by the commissioner. The principal amount of the certificate shall be the same as that required for a surety bond under this section and the interest thereon shall be made payable to the purchaser thereof.

(4) The commissioner shall, when he questions a grain dealer's ability to pay producers for grain purchased, or when he determines that the grain dealer does not have a sufficient net worth to meet his financial obligations, require a grain dealer to post an additional bond in a dollar amount equal to the insufficiency or shall require an additional certificate of deposit or an irrevocable letter of credit equal to the insufficiency, as deemed appropriate by the commissioner. Failure to post the additional bond or certificate of deposit or an irrevocable letter of credit constitutes grounds for suspension or revocation of a license issued under this section.

(5) The bond or additional bond shall be made payable to the Commonwealth of Kentucky, with the commissioner as trustee, and shall be conditioned on the grain dealer's faithful performance of his duties as a grain dealer and his compliance with this section. It shall be for the use and benefit of any producer from whom the grain dealer may purchase grain and who is not paid by the grain dealer, and shall not be cancelled, except upon at least sixty (60) days' notice in writing to the department. In no event shall the total aggregate liability of a surety exceed the face amount of its bond.

(6) Any grain dealer who is of the opinion that his net worth and assets are sufficient to guarantee payment to producers for grain purchased by him may request the commissioner to be relieved of the obligation of filing a bond in excess of the minimum bond of twenty-five thousand dollars ($25,000). Such request shall be accompanied by a financial statement of the applicant made within five (5) months of the date of such request, certified by a licensed public accountant, and such additional information concerning the applicant and his finances as the department may require. If such financial statement discloses a net worth of an amount equal to at least three (3) times the amount of the bond required by this section and the commissioner is otherwise satisfied as to the financial ability and resources of the applicant, the commissioner may waive that portion of the required bond in excess of twenty-five thousand dollars ($25,000). However, in the case of a grain dealer whose net worth is not equal to three (3) times the amount of bond required, the commissioner may allow the grain dealer to waive, in one thousand dollar ($1,000) increments, a portion of the bond required in excess of twenty-five thousand dollars ($25,000). The percentage factor to be applied to the bond required in excess of twenty-five thousand dollars ($25,000) shall be determined by dividing actual net worth by the net worth required to waive all bond in excess of twenty-five thousand dollars ($25,000). If the result of this computation provides a percentage factor of eighty percent (80%) or greater, then that same percentage of the bond in excess of twenty-five thousand dollars ($25,000) may be waived. The grain dealer shall then provide to the department a surety bond in the amount of twenty-five thousand dollars ($25,000) plus any additional bond required in excess thereof.

(7) Any grain dealer who purchases grain from producers only in connection with or as an incident to some other business and whose total purchases of grain from producers during any fiscal year do not exceed an aggregate dollar amount of *two hundred fifty* [~~one hundred~~] thousand dollars *($250,000)* [~~($100,000)~~] may satisfy the bonding requirements of this section by filing with the department a bond, certificate of deposit or an irrevocable letter of credit at the rate of one thousand dollars ($1,000) for each ten thousand dollars ($10,000) or fraction thereof of the dollar amount to be purchased with a minimum bond, certificate of deposit or an irrevocable letter of credit of one thousand dollars ($1,000), and a current financial statement.

(8) Failure of a grain dealer to file a bond, certificate of deposit or an irrevocable letter of credit and to keep the bond, certificate of deposit or an irrevocable letter of credit in force or to maintain assets adequate to assure payment to producers for grain purchased from them shall be grounds for the suspension or revocation of a license issued under this section.

(9) When the commissioner has determined that a grain dealer has defaulted payment to producers for grain which he has purchased from them, the commissioner shall determine, through appropriate legal procedures, the producers and the amount of defaulted payment, and, as trustee of the bond, shall immediately after the determination call for the dealer's surety bond or bonds to be paid to him for distribution to those producers who should receive the benefits. Should the defaulted amount owed producers be less than the principal amount of the bond or bonds then the surety shall be obligated to pay only the amount of the default.

(10) Any grain dealer who is also in the business of storing grain and is a warehouseman as defined

in KRS 251.610 may be exempted from the licensing fee and bonding requirements of KRS 251.451 as long as his storage capacity and storage obligations are considered in formulating his grain dealer bond requirement.

The Committee Amendment No. 1 to **HB 853** is as follows:

Amend printed copy of **HB 853** on page 5, line 13, by adding after "a" the word "*grain*" and placing a bracket before and after the word "feed" and striking through the word "feed"; and

On page 11, line 4, after "(7)", insert "*An incidental*" and bracket and strikethrough "Any"; and

On page 11, lines 4 through 6, on line 4 place a bracket "[" before "who" and on line 6 place a bracket "]" after "and" and strikethrough the intervening words.

The Committee on Cities reported **HB 756** with Committee Amendment attached thereto, **HB 838**, **HB 1011**, **HJR 123** and **SB 154** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 756. AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.530 is amended to read as follows:

(1) Each county and school board as defined in KRS 78.510 will participate in the system by appropriate order authorizing such participation which has been entered and duly recorded in the records of the governing body of the county or school board. The authority to issue and properly record such order of participation being hereby granted, permits such county to participate in the system. The effective date of such participation shall be fixed in the order.

(2) Once a county or school board participates it shall thereafter continue to participate except as provided in KRS 78.535.

(3) (a) Concurrent with the adoption of the appropriate resolution to participate in the system, a county may elect the alternate participation plan which will require the county to purchase on behalf of each employe electing coverage, at the time the county elected to participate in the system as provided under KRS 78.540(2) current service credit for employment in regular full-time positions between July 1, 1958 and the participation date of the county. *The county which elects alternate participation may purchase all or part of the current service credit between July 1, 1958, and its participation date, but no less than five (5) years of current service credit for each eligible employe.* Cost of such service credit over and above that which would be funded within the existing employer contribution rate shall be determined by the board's consulting actuary. The expense of such actuarial service shall be paid by the county;

(b) The county shall establish a payment schedule subject to approval by the board for payment of the cost of such service over and above that which would be funded within the existing employer contribution rate. The maximum period allowed in a payment schedule shall be thirty (30) years, with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any payment schedule provided it is not longer than a thirty (30) year period; and

(c) A city entering the system under the alternate participation plan, may, by ordinance, levy a special property tax to pay for current service credit purchased for the period between July 1, 1958 and the participation date of the city. The special tax shall be to pay, within a period of no more than fifteen (15) years, for the cost of such service credit over that which would be funded within the existing employer contribution rate, as determined by the board's consulting actuary. The reason for levying the special tax and the disposition of the proceeds shall be part of the ordinance levying the tax. The special tax shall be rescinded when the unfunded prior service liability has been amortized, and shall not be subject to the provisions of KRS 132.017 or 132.027. The city shall not collect the special property tax if its participation has been terminated pursuant to KRS 78.535.

(4) Every school board not participating on June 21, 1974, shall enact a resolution of participation no

later than July 1, 1976.

(5) The order of the governing body of a county, as provided for in subsection (1) of this section, may exclude from participation in the system, hospitals and any other semi-independent agency. Each such excluded agency shall be identified in the order authorizing participation and such excluded agency may participate in the system as a separate agency.

(6) An agency whose participation in the county employes retirement system has been terminated by the board of trustees in accordance with KRS 78.535 may at a later date request participation in the retirement system by the adoption of an appropriate order as authorized by subsection (1) of this section. The board may accept the participation of such agency provided it is determined that such participation is in the best interest of the agency, the employes thereof and the county employes retirement system.

(7) After July 1, 1985, local government retirement systems created pursuant to KRS 79.080, 90.400, 90.410, 95.768 and 96.180 shall be closed to new members. New employes who would have been granted membership in such retirement systems shall instead be granted membership in the county employes retirement system. Employes who would have been granted membership in retirement systems created pursuant to KRS 95.768, or any other policemen or fire fighters who would have been granted membership in retirement systems created pursuant to KRS 79.080, 90.400 or 90.410 shall be certified by their employers as working in hazardous positions. Each city participating in the county employes retirement system pursuant to this subsection shall execute the appropriate order authorizing such participation, shall, if its local pension system provides a defined benefit, select the alternate participation plan as described in subsection (3) of this section, and shall pay for the actuarial services necessary to determine the additional costs of alternate participation. Cities which provide a defined contribution pension plan locally may select the alternate participation plan, and in that case shall pay for the actuarial services necessary to determine the additional costs of alternate participation.

Section 2. KRS 78.531 is amended to read as follows:

(1) Any member of a retirement system created pursuant to KRS 67A.320, 67A.340, 79.080, 90.310 to 90.420, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.784, 95.852 to 95.884 and 96.180, notwithstanding any provisions of the statutes to the contrary, may elect to terminate coverage under the retirement system in which he is a member, if the city or urban-county government has adopted the provisions of the county employes retirement system pursuant to KRS 78.520 to 78.852.

(2) If the city or urban-county government elects the alternate participation plan, as set forth in KRS 78.530(3), employe contributions made to the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884 or 96.180 shall be paid to the county employes retirement system and credited to the individual member's account in the system for any employe electing to terminate coverage under the provisions of this section. Proper credit for these employe contributions shall be given to the city or urban-county government in computing the cost of participation under the alternate participation plan as provided by KRS 78.530(3).

(3) If the city or urban-county government does not elect the alternate participation plan as set forth in KRS 78.530(3), the employe contributions paid into the fund under authority of KRS 67A.320, 67A.340, 79.080, 90.400(1), 90.410, 95.290, 95.520 to 95.620, 95.621 to 95.629, 95.767 to 95.785, 95.852 to 95.884 or 96.180 by each employe electing to terminate coverage under the provisions of this section shall be refunded to the employe with interest as specified in the applicable statute, unless the employe has a vested account in which case he may elect to leave his contributions in the fund in order to later receive a pension when he becomes eligible. *If the city or urban county elects to purchase only part of the current service credit for its employes, it shall refund employe contributions for those years of service credit it does not purchase, with interest as specified in the applicable statute. The employe who is refunded his contributions may elect to purchase current service credit for employment in regular full-time positions between July 1, 1958, and the participation date of the county. The employe may purchase all or part of the service credit, but partial purchases shall be in whole year increments and for not less than one (1) year. Current service credit purchased by the employer and employe shall not exceed the employes actual service credit.*

Section 3. KRS 61.552 is amended to read as follows:

(1) Any employe of a department participating in the Kentucky employes retirement system, or any employe of an agency participating in the county employes retirement system, or any member of the state

police retirement system, or any active contributing member of the teachers' retirement system or a contributing member of the judicial retirement plan or legislators' retirement plan or an employe of a parted employer whose employment has previously been terminated and who has been refunded his accumulated contributions, thereby losing service credit, may regain such credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system provided, however, the provisions of KRS 161.470 must be met in order to regain such credit in the teachers' retirement system and provided further that KRS 21.460 shall govern with respect to regaining credit in the judicial retirement plan or legislators' retirement plan. Such payment including interest as determined by the board shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. Such payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employe of a county participating in the county employes retirement system or any former county employe who is an employe of a participating department in the Kentucky employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan who did not elect membership in the county employes retirement system as provided in subsection (2) of KRS 78.540 may obtain credit in the county employes retirement system for prior service and for current service by paying to the county employes retirement system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(3) Any employe of a participating department or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan who did not elect membership in the Kentucky employes retirement system as provided in subsection (2) of KRS 61.525 may obtain credit in the Kentucky employes retirement system for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(4) An employe of a participating department which did not participate in the system effective July 1, 1956, or any former state employe who is an employe of a county participating in the county employes retirement system or a contributing member of the state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan may obtain credit in the Kentucky employes retirement system for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(5) An employe or former employe, not yet retired who has not withdrawn his contributions pursuant to KRS 61.625, of a county participating in the county employes retirement system which did not participate in the system effective July 1, 1958, may obtain credit in the county employes retirement system for current service between July 1, 1958, and the effective date of participation of his county by paying to the county employes retirement system a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. *The employe may purchase all or part of the service credit, but partial purchases shall be in whole year increments and for not less than one (1) year.* The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(6) Effective July 15, 1986, service credit obtained under subsections (1) to (4) of this section shall be disallowed and the recontribution of refund including interest as determined by the board and the delayed contribution payment, if any, shall be paid to the member, upon request, or in the event of his death to his properly designated beneficiary if the member does not obtain for service performed six (6) months current service credit in either the Kentucky employes retirement system, county employes retirement system, state police retirement system, teachers' retirement system, judicial retirement plan or legislators' retirement plan, or as an employe of a parted employer.

(7) Any employe of a county participating in the county employes retirement system, or any employe of a department participating in the Kentucky employes retirement system, who has obtained for service performed six (6) months current service credit in either retirement system, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by an advance funded retirement program in which he could vest during his period of employment, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain

credit in the county employes retirement system or the Kentucky employes retirement system for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the county employes or Kentucky employes retirement system. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(8) (a) Effective August 1, 1980, any county participating in the county employes retirement system may purchase current service, between July 1, 1958 and participation date of the county, for present employes of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky employes retirement system may purchase current service between July 1, 1956 and participation date of the department, for present employes of the department who were employes on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for such service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of such service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection any present employe who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for such service credit refunded with interest at the rate paid under KRS 61.575 or KRS 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(9) Interest paid by a member of the Kentucky employes retirement system, county employes retirement system, or state police retirement system under this section or other similar statutes under KRS 16.510 to 16.652 or 61.515 to 61.705 or 78.520 to 78.852 prior to June 19, 1976 shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(10) Members who served as assistants to officers and employes of the general assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for such service performed after January 1, 1960, provided the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(11) Effective August 1, 1986, any employe of a county participating in the county employes retirement system, or any employe participating in the Kentucky employes retirement system, or any employe participating in the state police retirement system may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on an annual or fiscal year basis. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(12) A retired member, who is contributing to one (1) of the state administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, will have his retirement allowance recomputed:

(a) Upon termination from employment if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section if the member is contributing to a system other than the system or systems from which he is retired.

(13) Any employe participating in the state police retirement system, Kentucky employes retirement system, or the county employes retirement system may obtain credit for prior or current service for any period of approved educational leave by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(14) Any employe participating in the state police retirement system, Kentucky employes retirement system, or the county employes retirement system may obtain credit for prior or current service for any period of approved maternity leave granted prior to January 1, 1972, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

The Committee Amendment No. 1 to **HB 756** is as follows:

Amend printed copy of **HB 756** on pages 1 through 6, by deleting Sections 1 and 2 of the bill and on page 7, line 1, by renumbering "Section 3." to read "Section 1."

HB 838, AN ACT relating to tourist and convention commission in county containing cities of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.370 is amended to read as follows:

(1) The commission established pursuant to subsection (1) of KRS 91A.350 shall be composed of nine (9) members to be appointed by the mayor of the largest city in the county, the county judge/executive and the governor of the Commonwealth.

(2) The mayor of the largest city in the county shall appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the local city hotel and motel association.

(b) One (1) commissioner from a list submitted by the chamber of commerce of the largest city in the county.

(c) One (1) commissioner from a list submitted by the local restaurant association or associations.

(3) The county judge/executive shall, with the approval of the fiscal court, appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the local county hotel and motel association, provided that if only one (1) local hotel and motel association exists which covers both the city and county, then the local hotel and motel association shall submit a list to the county judge/executive.

(b) *One (1) commissioner from a list submitted by the board of directors of Churchill Downs, Inc. which list shall contain only directors, officers or employes of Churchill Downs, Inc.*

(c) One (1) commissioner [~~Two (2) commissioners shall be appointed~~] who *is a resident* [~~are residents~~] of the county and who *has* [~~have~~] an active interest in the convention and tourist industry.

(4) The governor shall appoint three (3) commissioners in the following manner:

(a) One (1) commissioner from a list submitted by the state fair board.

(b) One (1) commissioner from a list submitted by the Louisville and Jefferson County air board.

(c) One (1) commissioner shall be appointed who is a resident of the county.

(5) Vacancies shall be filled in the manner that original appointments are made.

(6) When a list as provided in parts (2) and (3) of this section contains less than three (3) names or when a selection from such list is not made, the appointing authority shall request in writing the submission of a new list of names.

(7) The commissioners shall be appointed for a term of three (3) years, provided that in making the initial appointments, the mayor, county judge/executive and governor of the Commonwealth shall each appoint one (1) commissioner for a term of one year, one (1) commissioner for a term of two (2) years, and one (1) commissioner for a term of three (3) years.

(8) The commission shall elect from its membership a chairman and a treasurer, and may employ such personnel and make such contracts as are necessary to effectively carry out the purposes of KRS 91A.350 to 91A.390. Such contracts may include but shall not be limited to the procurement of promotional services, advertising services and other services and materials relating to the promotion of tourist and convention business; provided, contracts of the type enumerated shall be made only with persons, organizations, and firms with experience and qualifications for providing promotional services and materials such as advertising firms, chambers of commerce, publishers and printers.

(9) The books of the commission shall be audited by an independent auditor who shall make a report to the commission, to the organizations submitting names from which commission members are selected, and to the mayor, the county judge/executive and the governor of the Commonwealth.

(10) Commission members appointed by the governor shall serve at the pleasure of the governor. Commission members appointed by the mayor or the county judge/executive may be removed as provided by KRS 65.007.

HB 1011, AN ACT relating to appointments to boards and commissions in counties containing a city of the first class.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67.710 is amended to read as follows:

The county judge/executive shall be the chief executive of the county and shall have all the powers and perform all the duties of an executive and administrative nature vested in, or imposed upon, the county or its fiscal court by law, or by agreement with any municipality or other subdivision of government, and such additional powers as are granted by the fiscal court. The county judge/executive shall be responsible for the proper administration of the affairs of the county placed in his charge. His responsibilities shall include, but are not limited to, the following:

(1) Provide for the execution of all ordinances and resolutions of the fiscal court, execute all contracts entered into by the fiscal court, and provide for the execution of all laws by the state subject to enforcement by him or by officers who are under his direction and supervision;

(2) Prepare and submit to the fiscal court for approval an administrative code incorporating the details of administrative procedure for the operation of the county and review such code and suggest revisions periodically or at the request of the fiscal court;

(3) Furnish the fiscal court with information concerning the operations of the county departments, boards, or commissions, necessary for the fiscal court to exercise its powers or as requested by the fiscal court;

(4) Require all officials, elected or appointed, whose offices utilize county funds, and all boards, special districts, and commissions exclusive of city governments and their agencies located within the county to make a detailed annual financial report to the fiscal court concerning the business and condition of their office,

department, board, commission, or special districts;

(5) Consistent with procedures set forth in KRS Chapter 68, prepare and submit to the fiscal court an annual budget and administer the provisions of the budget when adopted by the fiscal court;

(6) Keep the fiscal court fully advised as to the financial condition and needs of the county and make such other reports from time to time as required by the fiscal court or as he deems necessary;

(7) Exercise with the approval of the fiscal court the authority to appoint, supervise, suspend, and remove county personnel (unless otherwise provided by state law); and

(8) With the approval of the fiscal court, make appointments to or remove members from such boards, commissions, and designated administrative positions as the fiscal court, charter, law or ordinance may create. The requirement of fiscal court approval must be designated as such in the county administrative code or the county charter. In counties containing a city of the first class, the county judge/executive shall appoint to *those seats which are not subject to prior qualification on* a board or commission an equal number of members from each district, as defined in KRS 67.045, into which the authority of the board or commission extends. If there are more districts than members of a particular board or commission, he shall not appoint more than one (1) member from any district. If there are more members of a particular board or commission than there are districts, he shall equalize appointments to the extent possible. *The county judge/executive shall not be required, but shall use his best efforts, to balance appointments on a board or commission if the appointments are to be made from nominees submitted by other groups or individuals or if nominees must have a professional or technical background, expertise or membership.* He shall attempt to balance appointments among all such boards and commissions in order to equalize representation of all districts over the entire range of such boards and commissions.

HJR 123, A JOINT RESOLUTION requesting and petitioning the Congress of the United States to support and pass the extension of mortgage revenue bonds to December 31, 1992.

WHEREAS, Kentucky Housing Corporation has, through public mandate, provided homeownership loans to lower and moderate income Kentuckians for fifteen years; and

WHEREAS, Kentucky Housing Corporation has, as one of its programs, provided over twenty-four thousand (24,000) home loans totaling over seven hundred million dollars ($700,000,000) to lower and moderate income Kentuckians across the Commonwealth; and

WHEREAS, Kentucky Housing Corporation has helped Kentuckians obtain the American dream of homeownership through its financing programs; and

WHEREAS, Kentucky Housing Corporation has been a strong impetus toward the economic and social well-being of the Commonwealth; and

WHEREAS, Kentucky Housing Corporation has provided these benefits to the lower and moderate income Kentuckians through the financing tool of mortgage revenue bonds (MRBs); and

WHEREAS, the federal government proposes to end the use of MRBs on December 31, 1988;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the 1988 Kentucky General Assembly shall notify and urge the Congress of the United States to support and pass the extension of mortgage revenue bonds to December 31, 1992, through respective federal legislation S.1522 or HR.2640.

Section 2. That copies of this resolution shall be mailed to the President Pro Tempore of the U.S. Senate and the Speaker of the U.S. House of Representatives and to the members of the Kentucky Congressional delegation.

SB 154, AN ACT relating to mass transit authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 96A.180 is amended to read as follows:

An authority shall provide [~~for~~] insurance, *or may provide for self insurance and establish for that purpose such reserves as it deems prudent, for* [~~of~~] its properties, and for workers' compensation, and for public liability [~~or any other risk or hazard arising from its activities~~], and may provide for the insuring of its officers or employes [~~against any such risk or hazard~~], and the expense of obtaining such insurance, and of paying the premiums therefor from time to time, shall be borne by the authority and be chargeable as an operating expense of the authority. [~~The board of an authority may provide for self insurance and may establish for that purpose such reserves as it deems prudent.~~]

The Committee on Education reported **HB 634**, **HB 980** with Committee Amendment attached thereto, **HJR 129** with Committee Amendments attached thereto, **HCR 131** and **SB 55** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 634, AN ACT relating to the organization and structure of the Kentucky higher education student loan corporation and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164A.050 is amended to read as follows:

(1) There is hereby created and established an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky which shall be a body corporate and politic to be known and identified as the Kentucky higher education student loan corporation. *The corporation shall be organizationally attached to the finance and administration cabinet for administrative and reporting purposes as contemplated by KRS 12.020.*

(2) The Kentucky higher education student loan corporation is created and established as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky to perform essential governmental and public functions and purposes in improving and otherwise promoting the educational opportunities of the citizens and inhabitants of the Commonwealth of Kentucky and other qualified students by a program of financing, making and purchasing of insured student loans.

(3) The corporation shall be governed by a board of directors consisting of five (5) members, two (2) of whom shall be chosen from the general public residing in the Commonwealth of Kentucky and three (3) of whom shall be the chairman of the council on higher education, the secretary of the executive department for finance and administration and the chairman of the Kentucky higher education assistance authority.

(4) Upon organization of the corporation, the governor shall appoint the two (2) directors from the general public to take office and to exercise all powers thereof immediately. Of the two (2) members of the corporation so appointed, one (1) shall continue in office for a term of four (4) years, and one (1) shall continue in office for a term of three (3) years. All succeeding terms shall be for a period of four (4) years each. Each director shall serve for the appointed term and until a successor has been appointed and has duly qualified.

(5) In the event of a vacancy, the governor may appoint a replacement director who shall hold office during the remainder of the term so vacated.

(6) The governor may remove any director from the general public in case of incompetency, neglect of duties, gross immorality, or malfeasance in office; and may thereupon declare such office vacant and may appoint a person to fill such vacancy as provided in other cases of vacancy.

(7) The board shall elect from its voting membership a chairman, secretary and treasurer. *The board shall be authorized in its discretion to appoint an executive director to manage the affairs of the corporation subject to the policies, control, and direction of the board, who may be the executive director of the Kentucky*

higher education assistance authority or another [~~The executive director of the Kentucky higher education assistance authority shall serve as executive director of the corporation~~].

(8) The executive director shall administer, manage and direct the affairs and business of the corporation, subject to the policies, control and direction of the board of directors of the corporation. The secretary of the corporation shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents and papers filed with the corporation, the minute book or journal of the corporation and its official seal. The secretary shall have authority to cause copies to be made of all minutes and other records and documents of the corporation and to give certificates under the official seal of the corporation to the effect that such copies are true copies and all persons dealing with the corporation may rely upon such certificates.

(9) A majority of the board of directors of the corporation shall constitute a quorum for the purpose of conducting its business and exercising its powers and for all other purposes notwithstanding the existence of any vacancies in respect of the board of directors.

(10) Official actions may be taken by the corporation at meetings duly called by the chairman upon three (3) days' written notice to each director or upon the concurrence of at least a majority of the directors.

(11) Directors shall receive no compensation for their services but shall be entitled to their reasonable and necessary expenses actually incurred in discharging their duties under this chapter.

(12) The Kentucky higher education assistance authority (the "guarantee agency") shall provide technical, clerical and administrative assistance to the corporation, together with necessary office space and personnel, and shall assist the corporation in all ways by the performance of any and all actions which may be useful or beneficial to the corporation in the performance of its public functions as an independent de jure municipal corporation and political subdivision of the Commonwealth of Kentucky charged with the responsibility of financing, making and purchasing of insured student loans. The corporation shall enter into such contracts with the guarantee agency as shall be proper and appropriate in respect of such services which may include, but not by way of limitation, servicing and collection of insured student loans.

(13) Subsection (12) of this section and the provisions of KRS Chapter 18A notwithstanding, the board may employ or contract for the services of fiscal and other kinds of consultants, attorneys, counselors, and such other employes as may be required in the judgment of the board to carry out the purposes of this Act and fix and pay their compensation from any funds available to the corporation.

Section 2. In order to facilitate the administrative reorganization of the Kentucky higher education student loan corporation as established by Section 1 of this Act and the coordination of financial planning for the corporation, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

HB 980. AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the foundation program for each district, the superintendent of public instruction shall allot to each district classroom units for elementary and secondary schools, classroom units for vocational education, classroom units for exceptional children, classroom units for gifted and talented children when units are included in the executive budget, classroom units for superintendents, administrative and special instructional services, classroom units for supervisors of instruction, classroom units for directors of pupil personnel, and classroom units for related services for exceptional children; provided, however, that The number of classroom units allotted any district shall not exceed the number of teachers employed by the district.

(2) Unless otherwise provided by the general assembly in a budget bill, classroom units for elementary and secondary schools shall be allotted as follows:

(a) Classroom units for kindergarten shall be allotted one (1) unit for each twenty-five (25) kindergarten full-time equivalent pupils in average daily attendance *and* [~~, except when sufficient funding is appropriated~~

~~to the kindergarten program, one (1) unit shall be provided for each twenty (20) full-time equivalent pupils in average daily attendance. Beginning with the 1986-87 school year,~~] one (1) teacher aide shall be provided for each kindergarten unit allotted;

(b) Classroom units for grade one (1) *through grade three (3)* shall be allotted [~~as follows:~~

~~1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;~~

~~1987-88,~~] one (1) unit for each twenty-two (22) students in average daily attendance;

Beginning in 1990-91 [~~1988-89, one (1) unit for each twenty-one (21) students in average daily attendance; and~~

~~1989-90~~] and thereafter, *classroom units for grade one (1) to grade three (3) shall be allotted* one (1) unit for each twenty (20) students in average daily attendance;

(c) [~~Classroom units for grade two (2) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-three (23) students in average daily attendance;~~

~~1987-88, one (1) unit for each twenty-two (22) students in average daily attendance; and~~

~~1988-89 and thereafter, one (1) unit for each twenty-one (21) students in average daily attendance;~~

~~(d) Classroom units for grade three (3) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-three (23) students in average daily attendance; and~~

~~1987-88 and thereafter, one (1) unit for each twenty-two (22) students in average daily attendance;~~

~~(e)~~] Classroom units for grade four (4) *through grade six (6)* shall be allotted [~~as follows:~~

~~1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance;~~

~~1987-88,~~] one (1) unit for each twenty-six (26) students in average daily attendance;

(d) Classroom units for grades seven (7) through twelve (12) shall be allotted one (1) unit for each [~~1988-89, one (1) unit for each twenty-five (25) students in average daily attendance; and~~

~~1989-90 and each year thereafter, one (1) unit for each twenty-four (24) students in average daily attendance;~~

~~(f) Classroom units for grade five (5) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and~~

~~1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;~~

~~(g) Classroom units for grade six (6) shall be allotted as follows:~~

~~1986-87, one (1) unit for each twenty-seven (27) students in average daily attendance; and~~

~~1987-88 and each year thereafter, one (1) unit for each twenty-six (26) students in average daily attendance;~~

~~(h)~~] twenty-seven (27) pupils in average daily attendance [~~in grades seven (7) through twelve (12)~~]. Nine and six-tenths (9.6) average daily attendance shall be deducted for each unit allotted the school district *under* *subsection (8) of this section from* [~~for~~] grades *seven (7)* [~~four (4)~~] through twelve (12) [~~under subsection (9) of this section~~] and seven and two-tenths (7.2) average daily attendance shall be deducted for each unit allotted the school district *under subsection (9) of this section from* [~~for~~] grades *seven (7)* [~~four (4)~~] through twelve (12) [~~under subsection (10) of this section~~]. The average daily attendance of any exceptional child not assigned to a specific grade shall be added to the average daily attendance of grades *seven (7)* [~~four (4)~~] through twelve (12) before classroom units are allotted under this *subsection* [~~paragraph~~]. Unless otherwise provided by the general assembly in a budget bill, the allotments of classroom units in this subsection *and subsections (4) and (5) of this section* shall be made on the average daily attendance for the end of the previous school year in public school grades kindergarten through twelve (12)*;*

(c) Classroom units for home and hospital children shall be allotted one (1) unit for each ten (10) children in average daily attendance who have been properly identified according to state board of education regulations. Attendance shall be calculated as follows: a minimum of two (2) visits a week with a minimum of one (1) hour of instruction per visit by a teacher provided by the board of education, shall be equivalent to the attendance of one (1) child five (5) days in school, and shall be reported on forms provided by the department of education. Classroom units allotted for home and hospital children shall not receive capital outlay funds as provided in KRS 157.390(5) [~~except as provided in subsections (9) and (10) of this section~~].

(3) [~~(a) Effective until July 1, 1986, the superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through six (6) except in vocal and instrumental music, art, physical education and special education classes. The maximum number of pupils enrolled in a class shall be calculated by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget. The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through six (6).~~

~~(b) Effective July 1, 1986,~~] The superintendent of public instruction shall enforce maximum class sizes for every academic course requirement of the state board of education in kindergarten and grades one (1) through eight (8) except in vocal and instrumental music, [~~art,~~] physical education and special education classes. Except in classes combining pupils from two (2) or more grade levels, the maximum number of pupils enrolled in a class shall be calculated by adding three (3) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in kindergarten and grades one (1) through six (6) and by adding four (4) to the average daily attendance figure upon which funding of the unit is appropriated in the biennial budget in grades seven (7) and eight (8). The superintendent of public instruction, upon approval of the state board of education, shall adopt regulations for enforcing this provision. These regulations shall include procedures whereby a superintendent may request an exemption from the state board of education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in kindergarten and grades one (1) through eight (8). [~~(4)~~] In classes with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes.

(4)[~~(5)~~] If a local school district through its admission and release committee determines that an appropriate program in the least restrictive environment for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, then the school district shall count this as average daily attendance in a public school the time that such child is in attendance at such school or agency, contingent upon approval by the state superintendent of public instruction and pursuant to KRS 158.130.

(5)[~~(6)~~] Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers employed in such a center shall be considered as employes of each school district which is a party to the agreement.

(6)[~~(7)~~] Allotments of classroom units except those allotted in accordance with subsection *(7)*[~~(8)~~] of this section, shall be increased when the average daily attendance in kindergarten and grades one (1) through twelve (12) in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district in kindergarten and grades one (1) through twelve (12) for the first two (2) months of the previous school year. The total number of classroom units allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(7)[~~(8)~~] If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the number of classroom units allotted the district, except those allotted in accordance with subsection *(6)*[~~(7)~~] of this section, for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(8)[~~(9)~~] (a) Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for vocational education, one (1) classroom unit shall be allotted for each full-time teacher, and a proportionate fraction of a classroom unit shall be allotted for each less than full-time teacher of vocational classes that meet the regulations of the state plan of vocational education as approved by the state board of education; a proportionate fraction of a classroom unit shall be allotted for each teacher employed to teach part-time or short unit classes for less than a school day or a school year that meet the regulations of the state plan of vocational education as approved by the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor.

(b) Instructional salaries for vocational agriculture classes shall be allotted for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the office of vocational education in the department of education. Salary allotments for vocational agriculture units shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience. During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(c) Each teacher of agriculture employed twelve (12) months per year shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include: a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the state department of education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the state superintendent of public instruction a completed report of summer tasks for each vocational agriculture teacher employed for twelve (12) months. Twenty percent (20%) of the approved twelve (12) month vocational agriculture programs shall be audited annually by the state department of education to determine that the summer plan has been properly executed.

(9)[~~(10)~~] (a) [~~Through the 1987-88 school year,~~] One (1) classroom unit shall be included *for* [~~upon the employment of~~] each teacher approved to teach exceptional children in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without approval of the governor;

(b) *Classroom units allotted in paragraph (a) of this subsection may include cooperative classroom units for exceptional children. Cooperative classroom units shall be allotted to serve pupils from two (2) or more school districts. The districts having students enrolled in the cooperative classroom shall have contractual arrangements regarding average daily attendance, and financial and program responsibilities. One (1) of the school districts shall serve as the district of record. The district of record shall employ the teacher and receive the classroom unit allotted for the cooperative classroom;*

(c) Effective with the 1988-89 school year and each year thereafter, one (1) classroom unit for exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education shall be allotted for each six (6) children identified

as emotionally disturbed, hearing impaired, trainable mentally handicapped, or severely and profoundly mentally handicapped, each sixty (60) children identified as having communication disorders of speech and language but not counted in any other area of exceptionality, and each twelve (12) additional exceptional children in all other categories referenced in KRS 157.200. Portions of units shall be allotted by tenths of units when the number of children do not total the required number for a whole unit. Calculations for units for exceptional children shall not be based on average daily attendance. A local school district may organize and administer classroom units to best meet the needs of its exceptional children pursuant to KRS 157.224(2). The superintendent of public instruction shall enforce minimum and maximum class sizes as provided in administrative regulations. No local school district shall receive classroom units for exceptional children for more than fifteen percent (15%) of their prior year's average daily attendance for the 1988-89 school year and for more than twelve percent (12%) of their prior year's average daily attendance for the 1989-90 school year and each year thereafter without state board of education approval based on unique or unusual district characteristics including but not limited to federal census population being substantially higher than the district's student enrollment; *and*

(d)[~~(c) In addition to the classroom units allotted in paragraphs (a) and (b) of this subsection,~~] If a local school district, through its admission and release committee, determines that the most appropriate and least restrictive individual educational program for a particular handicapped child includes either part-time or full-time enrollment with a private school or agency, the school district shall be reimbursed in addition to the amount distributed under KRS 157.390, a pro rata allotment for those pupils under contract. The pro rata amount shall be calculated by dividing the district's average salary allotted for one hundred eighty-five (185) days plus the current expense [~~and capital outlay~~] allotment per classroom unit by the maximum number of pupils required by regulations for the pupil's specific type of classroom unit[~~; and~~

~~(d) The superintendent of public instruction shall limit approval of additional private agencies for participation in state funding for the above-cited program to those funds appropriated for this purpose in each biennial budget.~~

~~(11) (a) In allotting classroom units for home and hospital instruction, one (1) unit excluding the capital outlay allotment, shall be allotted for each ten (10) children in average daily attendance in the current school year who have been properly identified according to state board of education regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education; and~~

~~(b) Pursuant to regulations of the department of education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by regulation to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, a reasonable allotment for travel expenses to and from instructional assignments, but such formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the department of education~~].

(10)[~~(12)~~] Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for administrative and special instructional services, the total number of classroom units allotted in subsections (2), *(8)*[~~(9)~~], and *(9)*[~~(10)~~] of this section shall be divided by nine (9) and the quotient shall be the number of classroom units allotted to the district under this subsection.

(11)[~~(13)~~] In allotting classroom units for supervisors of instruction, one-half (1/2) of a classroom unit shall be allotted each district which is allotted twenty-five (25) through forty-nine and nine-tenths (49.9) classroom units under subsections (2), *(8)*[~~(9)~~] and *(9)*[~~(10)~~] of this section; one (1) unit shall be allotted each district which is allotted fifty (50) to one hundred (100) classroom units, one (1) unit shall be allotted for each one hundred (100) classroom units, or major fraction thereof, in districts allotted more than one hundred (100) classroom units under these subsections.

(12)[~~(14)~~] Unless otherwise provided by the general assembly in a budget bill, in allotting classroom units for directors of pupil personnel, one (1) classroom unit shall be allotted each district which is allotted thirty-six (36) to one hundred sixty-five and nine-tenths (165.9) classroom units under subsection (2) of this section and a unit for each additional two hundred and sixty-six (266) classroom units or fraction thereof allotted under subsection (2) of this secton. For districts having fewer than thirty-six (36) classroom units, a proportionate fraction of a classroom unit shall be allotted.

(13)[~~(15)~~] In allotting classroom units for superintendent, one (1) unit shall be allotted each school district.

(14)[~~(16)~~] In allotting classroom units for gifted and talented children, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, may allot units for gifted and talented children. The classroom units allotted under this subsection shall not exceed the units provided in the biennial budget without the approval of the governor.

(15)[~~(17)~~] Effective with the 1988-89 school year and each year thereafter, in allotting classroom units for related services for exceptional children, one (1) classroom unit shall be allotted for each five hundred (500) exceptional children properly identified in the prior year in accordance with the provisions of law and Kentucky administrative regulations of the state board of education. Classroom units for related services for exceptional children shall be used for approved certified or licensed personnel to provide the support services required to assist exceptional children to benefit from special education. Units may be used for special education directors or supervisors certified in special education and personnel to conduct the related services defined in KRS 157.200(4). Units shall be allotted proportionately and districts may provide related services through joint agreements. Nothing in this subsection shall prohibit a district from using units generated in subsections *(10)* [~~(12)~~] and *(11)* [~~(13)~~] of this section for related services for exceptional children.

Section 2. KRS 157.390 is amended to read as follows:

(1) (a) The superintendent of public instruction, under Kentucky administrative regulations of the state board of education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the state board of education or equivalent preparation and who have earned thirty (30) semester hours of approved graduate work or its equivalent, and those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the state board of education or equivalent preparation.

Rank III. Those holding regular certificates and who have an approved four-year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent; provided, however, that persons holding emergency certificates shall not be classified higher than this rank for calculation of the amount to be included in the foundation program.

Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(b) In determining ranks, the superintendent of public instruction, under Kentucky administrative regulations of the state board of education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit. The superintendent of public instruction, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(c) Nothing in this subsection shall allow the state board of education by regulation to reclassify downward any teachers currently in Ranks I or II.

(2) [~~(a)~~] The superintendent of public instruction, under Kentucky administrative regulations of the state board of education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:

[~~1. Zero to three (3) years;~~

~~2. Four (4) to nine (9) years;~~

~~3. Ten (10) to fourteen (14) years; and~~

~~4. Fifteen (15) or more years.~~

~~(b) Effective July 1, 1987, the years of categories of experience shall be as follows:~~]

1. Zero to three (3) years;

2. Four (4) to nine (9) years;

3. Ten (10) to fourteen (14) years;

4. Fifteen (15) to nineteen (19) years; and

5. Twenty (20) or more years.

(3) (a) The state salary schedule shall be amended to increase the base pay five percent (5%) in *1988-89* [~~1986-87~~] and an additional five percent (5%) in *1989-90* [~~1987-88~~];

(b) [~~In addition, in 1986-87 the category with ten (10) to fourteen (14) years of experience shall also receive a three hundred dollar ($300) increase in base pay and the category with fifteen (15) or more years of experience shall receive a seven hundred ($700) increase in base pay; and~~

~~(c) In 1987-88~~] The category with ten (10) to fourteen (14) years of experience shall receive [~~an additional~~] five hundred dollars ($500) *more than the preceding experience category* in base pay, the category with fifteen (15) to nineteen (19) years of experience shall receive [~~an additional increase of~~] nine hundred dollars ($900) *more than the preceding experience category* in base pay, and the category with twenty (20) or more years of experience shall receive [~~an additional increase of~~] one thousand three hundred dollars ($1,300) *more than the preceding experience category* in base pay.

(4) The amount to be included in each school year in the foundation program of a district for teachers' salaries shall be determined by multiplying the number of teachers in each rank, not to exceed the number of classroom units allowed, by the amount set forth in the biennial budget schedule for each rank and experience for a term of one hundred eighty-five (185) days. Provided, the amount to be included for units allotted under KRS 157.360*(8)*[~~(9)~~], *(10)*, (11), (12), (13) and *(15)* [~~(14)~~] shall be increased proportionately if the personnel for such units are employed for longer than the regular school term and such employment is approved by the superintendent of public instruction under Kentucky administrative regulations of the state board. Where the actual number of teachers employed by the district varies from the number allowed under the provisions of KRS 157.310 to 157.440, the number to be included in each rank shall be in the same ratio that the number of teachers actually in each rank is to the total number of teachers employed.

(4)[~~(5)~~] The amount to be included in the foundation program for other current expenses shall be determined by multiplying the number of classroom units by the amounts set forth in the biennial budget.

(5)[~~(6)~~] The amount to be included in the foundation program for capital outlay shall be determined by multiplying the number of classroom units except those allotted pursuant to KRS 157.360*(2)(e)* [~~(10)(c) and (d)~~] by the amounts set forth in the biennial budget.

(6)[~~(7)~~] The amount to be included in the foundation program of each district for transportation shall be determined by multiplying the aggregate attendance of transported children by the allowable cost per pupil per day for that district determined in accordance with the provisions of KRS 157.370.

(7)[~~(8)~~] The total amount of money distributable to each district from the public school foundation program fund shall be the sum of the allotments in subsections *(3)*, (4), (5) *and* [~~,~~] (6) [~~and (7)~~] of this section, *and shall include the allotment for kindergarten teacher aide under KRS 157.360(2)(a) and the allotment under KRS 157.360(9)(c).*

Section 3. KRS 157.410 is amended to read as follows:

For each school year the finance and administration cabinet, on the certification of the superintendent of public instruction, shall draw warrants as specified hereinafter on the state treasurer for the amount of the public school foundation program fund due each district. Checks shall be issued by the state treasurer and transmitted to the department of education for distribution to the proper officials of the several school districts when the districts have fully complied with the school laws and Kentucky administrative regulations of the state board of education. The superintendent of public instruction shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth (1/12) of each district's share of the tentative calculation for instructional salaries, current expenses, and transportation of the public common school foundation program fund shall be distributed. On or before May 1 of each year the superintendent of public instruction shall determine the exact amount of the public common school foundation program fund to which each district is entitled[~~, except those funds allotted pursuant to KRS 157.360(10)(c) and (d)~~] and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter. Final allotment of funds due each district pursuant to KRS 157.360(10)(c) and (d) shall not be calculated and distributed to the district until the last monthly report is received by the department of education. Capital outlay shall be made in two (2) payments. The first, on or before *August* [~~October~~] 1, shall be one-half (1/2) of the *prior year's capital outlay allotment* [~~amount calculated on the tentative allocation for capital outlay~~]. The balance due *for the current school year* shall be paid on or before May 1.

Section 4. KRS 157.564 is amended to read as follows:

(1) Notwithstanding any statutory provisions to the contrary[~~, effective for school years beginning on or after July 1, 1986,~~] the board of education of each school district shall levy for general school purposes *an ad valorem* [~~a minimum equivalent~~] tax rate of *fifteen* [~~twenty-five~~] cents *(15)*[~~(25)~~] or the maximum rate supported by the common school district power equalization program in that or the next subsequent school year as provided for in KRS 157.555 and 157.560, whichever is greater. [~~Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Commonwealth of Kentucky revenue cabinet.~~]

(2) No school district shall be eligible for the state power equalization support provided for in KRS 157.545 to 157.575 [~~in excess of the state power equalization support received by that school district for the school year beginning on July 1, 1985,~~] during any school year in which the board of education of such school district fails to levy the [~~minimum equivalent~~] tax rate *required in subsection (1) of this section* [~~of twenty-five cents (25)~~].

Section 5. KRS 132.487 is amended to read as follows:

(1) The cabinet shall develop and administer a centralized ad valorem tax system for all motor vehicles as defined in KRS 186.010. This system shall be designed to allow the collection of state, county, city, urban-county government, school, and special taxing district ad valorem taxes due on each motor vehicle at the time of registration of the motor vehicle by the party charged with issuing such registration. The cabinet shall supervise and instruct the property valuation administrators and other officials with respect to their duties in relation to this system.

(2) Except as otherwise provided by law, the tax rate levied by the state, counties, schools, cities, and special tax districts on motor vehicles shall not exceed the rate that could have been levied on motor vehicles by the district on the January 1, 1983 assessments*; except as follows:*

(a) If a school district board of education must increase the general fund ad valorem tax rate above the maximum that could have been levied on the 1983 assessment to comply with KRS 157.564, the rate required under KRS 157.564 shall apply to motor vehicles;

(b) If a school district had a special voted tax levied under KRS 157.440 or 160.477 on January 1, 1983, and the special voted tax expires, the motor vehicle rate may be reduced in an amount equivalent to the expired special voted tax;

(c) A school district levying a special voted tax after January 1, 1983, under KRS 157.440 or 160.477

shall levy the voted tax rate on motor vehicles.

All counties, schools, cities, and special taxing districts proposing to levy an ad valorem tax on motor vehicles shall submit to the cabinet on or before October 1 of the year preceding the assessment date, the tax rate to be levied against valuations as of that assessment date.

(3) The compensating tax rate and maximum possible tax rate allowable for counties, schools, cities, and special taxing districts on property other than motor vehicles for the 1984 and subsequent tax periods shall be calculated excluding all valuations of and tax revenues from motor vehicles from the base amounts used in arriving at these general rates.

(4) The transportation cabinet shall provide access to all records of motor vehicle registrations to the cabinet and the property valuation administrators as necessary to prepare and maintain a complete tax roll of motor vehicles throughout each year.

(5) The property valuation administrator shall, subject to the direction, instruction, and supervision of the cabinet, have responsibility for assessing all motor vehicles other than those assessed under KRS Chapter 136 as part of public service companies. The cabinet may provide standard valuation guidelines for use in valuation of motor vehicles.

(6) The property valuation administrator shall provide to the cabinet by December 1 of each year a recapitulation of motor vehicles to be assessed as of January 1 of the next year.

(7) Procedures for protest, appeal, and correction of erroneous assessments shall be the same for motor vehicles as for other properties subject to ad valorem taxes.

Section 6. KRS 160.470 is amended to read as follows:

(1) Each district board of education shall prepare a general school budget on forms prescribed and furnished by the state board of education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the department of revenue of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.

(2) (a) Notwithstanding any statutory provisions to the contrary, no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in [~~subsection (1) of~~] KRS 157.564 *or 157.575.* In succeeding years, no district board of education shall levy a general tax rate, a voted general tax rate, or a voted building tax rate which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year to the preceding year's assessment, except as provided in [~~subsection (1) of~~] KRS 157.564 *or 157.575.*

(b) In the event that an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate, maximum voted general tax rate, or maximum voted building tax rate, respectively, that could have been levied in the preceding year. . .," referred to in subsection (2)(a) of this section, for purposes of computing the general tax rate, voted general tax rate, or voted building tax rate for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(3) No district board of education shall levy a general tax rate, voted general tax rate, or voted building

tax rate within the limits imposed in subsection (2) of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in [~~subsection (1) of~~] KRS 157.564 *or 157.575*, until the district board of education has complied with the provisions of subsection (10) of this section.

(4) The superintendent of public instruction shall certify to each district board of education, by June 30 of each year, the following:

(a) The general tax rate, voted general tax rate, or voted building tax rate that a district board of education could levy under the provisions of subsection (2) of this section, and the amount of revenue expected to be produced by each;

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate, voted general tax rate, or voted building tax rate, and the amount of revenue expected to be produced by each;

(c) The general tax rate, voted general tax rate, or voted building tax rate which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced by each.

(5) Upon completion of action on property assessment data the department of revenue shall submit to the superintendent of public instruction, certified property assessment data as required in KRS 133.125.

(6) Within thirty (30) days after the district board of education has received its assessment data, three (3) copies of the budget shall be forwarded to the state board of education for its approval or disapproval. The failure of the district board of education to furnish the budget within the time prescribed shall not invalidate any levy made thereafter.

(7) The budget shall be disapproved by the state board of education if it is financially unsound or fails to provide for:

(a) Payment of maturing principal of and interest on any outstanding voted school improvement bonds of the school district authorized and issued pursuant to KRS 162.080 and 162.090, with the written approval of the state board of education, or

(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of the independent school district or county school district, as the case may be, by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the state board of education, or fails to comply with the law; and the state board of education shall state its reason, or reasons, for such disapproval.

In such event the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the state board of education for its final approval.

(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy in accordance therewith, so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the state board of education.

(9) Each district board of education shall, if required by the state board of education, prepare and submit to it not later than September 15, a close estimate or working budget which shall conform to the rules and regulations prescribed by the state board of education, and which shall be consistent in its major divisions with the general school budget previously prepared.

(10) (a) A district board of education proposing to levy a general tax rate, voted general tax rate, or voted building tax rate within the limits of subsection (2) of this section which exceed the compensating tax rate defined in KRS 132.010, shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district, or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing to be published at least twice in two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches, the following:

1. The general tax rate, voted general tax rate, and voted building tax rate levied in the preceding year, and the revenue produced by those rates;

2. The general tax rate, voted general tax rate, and voted building tax rate proposed for the current year and the revenue expected to be produced by those rates;

3. The compensating general, voted general, and voted building tax rates and the revenue expected from them;

4. The revenue expected from new property and personal property;

5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;

6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;

7. The purpose of the hearing; and

8. A statement to the effect that the general assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for such testimony.

(11) (a) That portion of a general tax rate, a voted general tax rate, or a voted building tax rate, except as provided in [~~subsection (1) of~~] KRS 157.564 *or 157.575*, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education, such as the case may be, as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate, voted general tax rate, or voted building tax rate, except as provided in [~~subsection (1) of~~] KRS 157.564 *or 157.575*, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches the following:

1. The fact that the district board of education has adopted such a rate;

2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and

3. The name, address and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary information about the petition required to initiate recall of the tax rate.

The Committee Amendment No. 1 to **HB 980** is as follows:

Amend printed copy of **HB 980** beginning on page 2, by deleting all brackets, strike throughs, and underlined language through page 17; and

On page 12, line 6, by placing brackets around and striking through "1988-89" and inserting in lieu thereof "*1990-91*"

On page 16, line 20, by placing brackets around and striking through "1988-89" and inserting in lieu thereof "*1990-91*"

HJR 129, A JOINT RESOLUTION directing the department of education to develop and implement a pilot program to determine the actual cost per pupil of programs funded through the foundation program and making an appropriation and declaring an emergency therefor.

WHEREAS, the foundation program is designed to provide for the equitable distributing of funds to local school districts so that school children throughout the Commonwealth receive equal education opportunities; and

WHEREAS, funds are appropriated and allotted under the foundation program on the basis of classroom units such that the specific needs of pupils are not necessarily addressed; and

WHEREAS, the present method of financial reporting employed uniformly among school districts does not reflect the costs of specific programs; and

WHEREAS, the present method of pupil attendance accounting does not report the number of pupils in each classroom; and

WHEREAS, the general assembly needs to know the actual costs per pupil of programs in order to appropriate funds to meet the specific needs of pupils in the Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That it is the intention of the general assembly to determine the actual costs per pupil of programs funded through the foundation program for the purpose of providing information which will enable the general assembly to appropriate funds for distribution to school districts on the basis of a weighted pupil unit or weighted classroom unit. It is the further intention of the general assembly that unit costs be determined by the department of education through pilot programs in school districts which shall institute financial and pupil accounting procedures determined to be necessary to provide pertinent information. Pilot programs shall be in operation during the 1988-89 and 1989-90 school years. Data collected shall be used to establish an accurate method of weighting pupil or classroom units for allotting foundation program funds to school districts. Financial and pupil accounting procedures developed through the pilot programs, if shown to provide the general assembly with data needed to allot funds on a more equitable basis, shall be incorporated into general use in all public school districts in the Commonwealth as soon as is feasible.

Section 2. By July 1, 1988, the superintendent of public instruction shall select not less than ten (10) school districts to serve as pilot sites. Participation shall be voluntary. Pilot districts selected shall be broadly representative of districts in the Commonwealth considering such factors as enrollment, type of political subdivisions, wealth per pupil, tax rate levies and number of vocational and exceptional units in operation.

Section 3. Financial and pupil accounting data collected shall include but not be limited to the following program areas: kindergarten, primary grades, middle grades, high school grades, vocational, and exceptional.

Section 4. A pilot program advisory committee shall be appointed in accordance with the following:

(1) The committee shall be composed of fifteen (15) members, one (1) member each from the Kentucky association of school administrators, the Kentucky school boards association, and the Kentucky education

association appointed by their respective organizations; eight (8) members from participating pilot school districts and two (2) members from school districts not participating as pilot school districts appointed by the state superintendent of public instruction; and two (2) members of the general assembly from the interim joint committee on education to be appointed by the legislative research commission. Members shall be appointed by July 1, 1988. The committee shall function until June 30, 1990. Vacancies occurring on the committee shall be filled immediately in the manner of original appointment.

(2) The committee shall elect a chairman from its membership at the first meeting.

(3) The state superintendent of public instruction shall make periodic reports to the state board of education and shall designate a staff member of the department of education as executive secretary of the committee.

(4) The functions of the committee shall be to advise the state superintendent of public instruction in the development and implementation of the procedures to be used in the pilot school districts and to approve periodic progress reports and a final report which shall contain a financial report and which shall be submitted to the legislative research commission by June 30, 1990.

(5) The members of the committee shall be reimbursed for actual and necessary expenses incurred while attending meetings of the advisory committee or while serving as representative of the committee.

(6) The committee shall meet at least three (3) times each year at such times and places as it determines by resolution.

Section 5. The department of education shall assume the following functions in developing and implementing the pilot program:

(1) The department, with assistance from the pilot program advisory committee, shall develop or cause to be developed in the 1988-89 and 1989-90 school years a pilot program to determine actual costs per pupil of programs funded through the foundation program.

(2) The department shall provide staff assistance to the advisory committee.

(3) The department shall provide technical assistance and in-service training for appropriate staff members of pilot school districts.

(4) The department shall administer the funds appropriated for the implementation of the pilot program and such funds may be expended for the following:

(a) Establish contractual relationships with individuals and agencies located within or without the Commonwealth for the purpose of developing and implementing procedures to determine costs per pupil.

(b) Employ personnel in the department as needed and reimburse pilot school districts for direct costs incurred as a result of participating in the pilot program.

(c) Pay expenses for department of education personnel employed under (b) of this subsection.

(d) Pay expenses for school district personnel to attend in-service training meetings provided in subsection (3) of this section.

(e) Pay expenses of advisory committee members.

(f) Purchase forms and pay other necessary expenses in the development and implementation of the pilot program.

Section 6. To carry out the provisions of this resolution, there is appropriated from the general fund to the department of education the sum of $5,000 for fiscal year 1987-88 and $125,000 for fiscal year 1988-89, which sum shall not lapse but shall be carried forward to the next fiscal year and $150,000 for fiscal year 1989-90.

Section 7. Whereas, in order for pilot programs to operate two full fiscal years thereby providing the most accurate cost data possible, lead time is needed to select pilot school districts and to find qualified personnel; therefore, an emergency is declared to exist and this resolution shall become effective upon its passage and approval by the governor.

The Committee Amendment No. 1 to **HJR 129** is as follows:

Amend printed copy of **HJR 129** on page 6, beginning on line 3 by deleting section 6 and section 7 in their entirety.

The Committee Title Amendment to **HJR 129** is as follows:

Amend printed copy of **HJR 129** by amending the title to read as follows:

"A JOINT RESOLUTION directing the department of education to develop and implement a pilot program to determine the actual cost per pupil of programs funded through the foundation program.

HCR 131. A CONCURRENT RESOLUTION urging the State Board of Education to implement a comprehensive accreditation program.

WHEREAS, the state board of education is responsible for the accrediting of all common schools in the state; and

WHEREAS, children in both exceptional and remedial programs have special needs that must be met; and

WHEREAS, the unique needs of a district should be met through such programs as adult education, early childhood education programs and dropout prevention;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly urges the State Board of Education to implement a comprehensive accreditation program that shall:

(a) Insure that all students have access to advanced programs in math, science, foreign language, language arts, and computer science;

(b) Evaluate state remediation programs to determine that federally funded programs are coordinated with state funded remediation programs;

(c) Evaluate guidance and placement programs to determine that students are enrolled in classes that will meet their needs;

(d) Address eligibility for extended employment;

(e) Evaluate programs such as school food service, transportation, maintenance and custodial, employment practices, availability of written policies, inservice training, and cost of programs in relation to other school districts of comparable size to determine the degree to which they are meeting student needs;

(f) Evaluate the purchasing and bidding programs for each school district to determine that all items consumed in the educational process are of a desirable quality and are purchased at the lowest net price;

(g) Evaluate the investment program to determine that all idle funds are invested at the highest interest rate possible;

(h) Evaluate the Internal Accounts Program to determine compliance with the state program for internal accounts.

Section 2. That a copy of this resolution shall be sent to the Chairman of the State Board of Education.

SB 55, AN ACT relating to classified employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

"Classified employe" shall mean an employe of a board of education who is not required to have certification for his position as provided in KRS 161.020.

The Committee Amendment No. 1 to **SB 55** is as follows:

Amend printed copy of **SB 55** on page 1, line 3, by inserting "*(1)*" before the word "*Classified*";

On page 1, after line 5, by adding the following:

"*(2) Any school employe may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.*"

The Committee Title Amendment to **SB 55** is as follows:

Amend printed copy of **SB 55** on page 1, by amending the title to read as follow: "AN ACT relating to school employes."

The Committee on Business Organizations and Professions reported **HB 886**, **SB 158** with Committee Amendment attached thereto, and **SB 273** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 886, AN ACT relating to local option.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

The adoption of urban county government by a county containing a city or cities of the first four classes when the local option status of the county is different from any of the cities therein contained shall not affect the local option status of said county or any of the cities therein contained. In any such county containing a city of the first four classes, the territorial boundaries thereof shall survive the adoption of urban county government for purposes of an election pursuant to KRS 242.125. The adoption of urban county government shall not impede or affect the right of a county or a former city of the first four classes to determine its own local option status.

SB 158, AN ACT relating to the certification of dietitians and nutritionists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS CHAPTER 310 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:

(1) In order to be certified as a dietitian, a person shall have:

(a) Earned at least a baccalaureate degree from a college or university which is accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges

and universities or any successor to the powers of both;

(b) Successfully completed minimum academic requirements established by the commission on dietetic registration, an affiliate of the national commission for health certifying agencies; and

(c) Successfully completed one (1) of the accredited experience options established by the commission on dietetic registration, which includes but is not limited to, completion of an accredited coordinated undergraduate program, an accredited dietetic internship, and approved three (3) year pre-planned work experience, or a master's degree in nutrition or a related area with six (6) months of full-time or equivalent qualifying experience.

(2) No person shall use the term "dietitian" or hold himself out as a "dietitian" or use any title which contains the term dietitian unless he has been duly certified in accordance with this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

No person shall hold himself out as a "registered dietitian" or use the initials "R.D." unless he has:

(1) Met the requirements established in Section 1 of this Act; and

(2) Successfully completed all other requirements for registration and is duly registered with the commission on dietetic registration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) In order to become a certified nutritionist, a person shall have:

(a) Met all the criteria established in Section 2 of this Act; or

(b) Completed a minimum of a master's degree in food science, nutrition, or in a field closely related to food science or nutrition, such as biochemistry, and has a minimum of twelve (12) semester hours of graduate credit in nutrition from a college or university which is accredited by the southern association of colleges and universities or an accrediting agency recognized by the southern association of colleges and universities or any successor to the powers of both.

(2) No person shall use the term "certified nutritionist," use the initials "C.N." or hold himself out to be a "certified nutritionist" unless he is duly certified in accordance with the provisions of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) The board of certification for dietitians and nutritionists is hereby created to be comprised of five (5) members appointed by the governor. Two (2) members shall be dietitians or registered dietitians, two (2) members shall be certified nutritionists and one (1) member shall be a public member who shall have no pecuniary interest in the nutrition field. Of the four (4) members from the nutrition field, one (1) shall represent hospitals, one (1) shall represent health care facilities other than hospitals, one (1) shall represent state or local nutritional programs or shall be a certified nutritionist in private practice and one (1) shall be a nutrition educator.

(2) The board shall be placed for organizational purposes under the division of occupations and professions and the division shall provide administrative and secretarial services as required.

(3) The purpose of the board is to certify dietitians and to certify nutritionists and to make recommendations as appropriate to the legislative research commission for revision of the statutes under which dietitians and nutritionists are certified.

(4) A member of the board shall serve for a term of four (4) years except that for initial appointments, two (2) shall be for four (4) years, one (1) shall be for three (3) years, and one (1) shall be for two (2) years and one (1) shall be for one (1) year. Members shall serve without compensation and no member shall serve more than two (2) consecutive terms.

(5) The board shall elect one (1) of its members as chairman and this chairman shall serve for the length of his term. The board shall meet on the call of the chairman, at the request of a majority of members or at the request of the director of the division of occupations and professions.

(6) The governor is encouraged to seek recommendations from professional associations representing dietitians and certified nutritionists and from other organizations representing agencies, institutions and other groups reflected in the membership of the board.

SECTION 5. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) Any person desiring to be certified as a dietitian or a nutritionist may make application to the board of certification for dietitians and nutritionists on forms provided by the division. Upon verification that an applicant meets qualifications established in Section 1 or Section 3 of this Act, the division shall issue a certificate, subject to approval of the board, which entitles the holder to use the title "dietitian" or "certified nutritionist." The board may require an applicant to submit documentation of qualifications and other such information as may be necessary to complete the certification process.

(2) The board may charge a certification fee to cover the cost of administering this Act but not to exceed fifty dollars ($50). The board shall establish the appropriate fee by regulation and in addition may promulgate other regulations which are necessary and reasonable to carry out the provisions of this Act.

SECTION 6. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) This Act shall not be construed to affect a person who owns a health food store or who manufacturers, distributes or sells health foods, dietary supplements or vitamins nor shall it be construed to affect any other person who provides nutritional or dietary advice or sells nutritional or dietary supplements so long as the person does not use the title "dietitian", "registered dietitian" or "certified nutritionist."

(2) Nothing in this Act shall be construed to prohibit any person licensed in this state from carrying out any therapy or practice for which he is duly licensed, including but not limited to physicians, osteopaths, podiatrists, chiropractors, dentists and nurses.

SECTION 7. A NEW SECTION OF KRS CHAPTER 310 IS CREATED TO READ AS FOLLOWS:

(1) Any person who violates the provisions of Section 1(2), Section 2 or Section 3(2) of this Act or who seeks to be certified or is certified under false pretenses or as a result of fraudulent information, shall be guilty of a class A misdemeanor.

(2) In addition, any person who violates the provisions of Section 1(2), Section 2 or Section 3(2) of this Act, shall be guilty of violating KRS 367.170 of the consumer protection act and shall be subject to injunction and any other penalties provided for in KRS Chapter 367.

The Committee Amendment No. 1 to **SB 158** is as follows:

Amend printed copy of **SB 158** on page 5, line 15, by deleting the words "*The board shall establish the*" and by deleting lines 16, 17 and 18 in their entirety.

SB 273, AN ACT relating to cities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) This section shall apply to any city of the fourth class in which prohibition is not in effect, notwithstanding any other provisions of this chapter relating to the sales of alcoholic beverages by the drink for consumption on the premises.

(2) Upon a determination by the legislative body that an economic hardship exists within the city and

that the sale of alcoholic beverages by the drink could aid economic growth, the legislative body may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(3) Licenses shall only be issued to hotels, motels or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons.

(4) The city legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable rules or regulations as may be necessary for the enforcement or administration of this section, provided that any rule or regulation adopted shall conform to the requirements of KRS 241.190.

(5) Notwithstanding any limitations imposed on the city's taxing or licensing power by KRS 243.070, the city may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city for the estimated costs for any additional policing, regulatory or administrative related expenses. Such regulatory license fee shall be in addition to any other taxes, fees or licenses permitted by law, but a credit against such fee shall be allowed in an amount equal to any licenses or fees imposed by the city pursuant to KRS 243.070.

Section 2. KRS 244.290 is amended to read as follows:

(1) No premises for which there has been granted a license for the sale of distilled spirits or wine at retail shall be permitted to remain open for any purpose between midnight and 8 a.m., or at any time during the twenty-four hours of a Sunday, or during the hours the polls are open on any regular, primary, school or special election day, provided, that if a licensee provides a separate department within his licensed premises capable of being locked and closed off, within which is kept all stocks of distilled spirits and wine, and all fixtures and apparatus connected with his business as a licensee, and said department is kept locked during the times mentioned above, he shall be deemed to have complied with this section; except that the city council, board of aldermen or other municipal legislative body of cities of the first, second, third or fourth class in which traffic in distilled spirits and wine is permitted under KRS Chapter 242 shall have the exclusive right and power, by ordinance duly enacted, to establish the hours and times in which distilled spirits and wine may be sold within its jurisdictional boundaries, and except further that the fiscal court of each county in which cities of the first, second, third or fourth class are located shall have the exclusive right and power to establish the hours and times in which distilled spirits and wine may be sold over that portion of the county which lies without the corporate limits of such cities, except any portion in which distilled spirits and wine are prohibited from being sold. Provided, however, that no distilled spirits or wine may be sold in any portion of the counties containing cities of the first, second, third or fourth class during the twenty-four (24) hours between 6 a.m. Sunday and 6 a.m. Monday, except as provided in KRS 243.050 and subsections (2), [~~and~~] (4) *and (6)* of this section, and that no distilled spirits or wine may be sold on any election day while the polls are still open; and provided, also, that all stocks of distilled spirits and wine must be kept locked during the hours which the licensee is prohibited from selling same.

(2) In any county containing a city of the first or second class in which the sale of distilled spirits and wine is permitted under KRS Chapter 242, an election on the question of permitting the sale of distilled spirits and wine by the drink on Sunday may be held as provided in KRS 242.020 to 242.040 and 242.060 to 242.120. In any election, the form of the proposition shall be, "Are you in favor of the sale of distilled spirits and wine by the drink between the hours of one p.m. and midnight on Sunday in (name of county)?"

(3) In any county containing a city of the first or second class in which the sale of distilled spirits and wine by the drink is permitted on Sunday as provided in subsections (2) and (4) of this section, holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for a special Sunday sale retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

(4) In any county containing a city of the first or second class or in any city located therein in which sale of distilled spirits and wine is permitted under KRS Chapter 242, the respective legislative body of such city or fiscal court, of such areas, shall have the power by duly enacted ordinance, to permit the sale of distilled spirits and wine by the drink on Sunday from 1 p.m. until a closing hour to be established by the legislative body of the area concerned, by hotels, motels, and restaurants which are licensed for the retail sale of distilled spirits and wine by the drink and which have dining facilities with a minimum seating capacity of one hundred (100) people at tables and which receive at least fifty percent (50%) or more of their gross

annual income from their dining facilities by the sale of food.

(5) (a) Any hotel, motel, restaurant operation, convention center or commercial airport which sells liquor on Sunday shall pay each of its employes wages at a rate of not less than the minimum wage as set forth in KRS 337.275(1), the provisions of KRS 337.275(2) and KRS 337.010(2)(a)(vi) notwithstanding.

(b) No employer shall use all or part of any tips or gratuities received by employes toward the payment of the statutory minimum wage as required under KRS 337.275(1). Nothing, however, shall prevent employes from entering into an agreement to divide tips or gratuities among themselves.

(6) Any city of the fourth (4th) class which has enacted a comprehensive, regulatory ordinance relating to the licensing and operation of hotels, motels, inns or restaurants for the sale of alcoholic beverages by the drink as provided in Section 1 of this Act, may also regulate and provide by ordinance for the special sale of distilled spirits and wine by the drink as authorized by subsections (2) and (4) of this section. Such special licenses shall only be issued to those hotels, motels, inns or restaurants authorized to sell alcoholic beverages by the drink as provided in Section 1(3) of this Act. Holders of distilled spirits and wine retail drink licenses may apply to the administrator of the distilled spirits unit for the special retail drink license. Upon receipt of an application and payment of the prescribed fee, the administrator shall issue a license.

The Committee on Health and Welfare reported **HB 987** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 987, AN ACT relating to probation and parole and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 196 IS CREATED TO READ AS FOLLOWS:

The cabinet shall establish a probation and parole officer salary improvement program consisting of the following elements:

(1) Probation and parole officer I with less than five (5) years of service shall receive no salary improvement.

(2) Probation and parole officer II with five (5) but less than ten (10) years of service shall receive a salary improvement of five percent (5%).

(3) Probation and parole officer III with ten (10) or more years of service shall receive a salary improvement of ten percent (10%).

(4) Salary improvements under this section shall be in addition to all other increments or other salary increases authorized by law but shall only be paid if the probation and parole officer has attained a favorable work-performance rating for four (4) of the previous five (5) years.

(5) The service requirement shall be satisfied only by service as a Kentucky probation and parole officer.

(6) At the time of implementation, officers who already meet the performance rating and service time requirements shall be awarded the respective position title and salary improvement. Officers who have not yet met those requirements shall be awarded the position title and salary improvements only upon meeting the requirements.

(7) Probation and parole seniors, coordinators, and supervisors shall be included in the appropriate progression series level for salary improvement based upon the work performance rating and respective service time requirement attained. However, the progression series titles shall not apply to probation and parole seniors, coordinators and supervisors.

(8) The cabinet shall make the administrative regulations necessary for the administration of this section.

Section 2. KRS 439.315 is amended to read as follows:

(1) A person placed by a releasing authority on probation, parole, or other form of release subject to supervision by the corrections cabinet, or the department of community services and facilities, shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release.

(2) The fees shall be as follows:

(a) For a felony, not less than *ten dollars ($10) per month while on active supervision* [~~five hundred dollars ($500)~~] nor more than two thousand five hundred dollars ($2,500).

(b) For a misdemeanor, not less than *ten dollars ($10) per month while on active supervision* [~~one hundred dollars ($100)~~] nor more than five hundred dollars ($500), *except as provided in subsection (13) of this section.*

(3) The *releasing authority shall order the* fee [~~may be ordered~~] paid in a lump sum or installments. If the fee is to be paid in a lump sum, the person shall not be released from custody until the fee is paid in full. [~~If the fee is to be paid in installments the person may be released on such terms and conditions as are set by the releasing authority.~~]

(4) Upon the failure of a person to pay an installment on a fee set forth in a release agreement, the releasing authority shall hold a hearing to determine why the installment has not been paid. Failure without good cause to pay an installment pursuant to a release agreement shall be grounds for the revocation of probation, parole, conditional release, or other form of release upon which the person has been released *as provided in KRS 533.050.*

(5) The releasing authority shall hold a hearing to determine the ability of the defendant to make *the* [~~such~~] payments; and in making this determination, the releasing authority shall take into account the amount of any fine imposed upon the defendant and any amount the defendant has been ordered to pay in restitution. *In counties containing an urban county form of government the releasing authority may waive the payment of the fee in whole or in part for defendants placed under the supervision of the adult misdemeanant probation and work release agency, if it finds that any of the factors in subsection (6) of this section exist.* [~~The releasing authority may waive the payment of the fee in whole or in part if it finds that any of the following factors exist:~~]

(6) The releasing authority shall not waive any fee unless the secretary of corrections or his designee petitions the releasing authority in written form for the waiver. The corrections cabinet shall not petition unless:
(a) [~~The offender has diligently attempted, but has been unable, to obtain employment which provides him sufficient income to pay said fee.~~

~~(b)~~] The offender is a student in a school, college, university, or course of vocational or technical training designed to fit the student for gainful employment. Certification of such student status shall be supplied to the releasing authority by the educational institution in which the offender is enrolled. *In such case, the fee may be postponed until completion of education but shall be paid thereafter.*

(b)[~~(c)~~] The offender has an employment handicap, as determined by a physical, psychological, or psychiatric examination acceptable to, or ordered by, the releasing authority.

[~~(d) The offender is responsible for the support of dependents, and the payment of said fee constitutes an undue hardship on the offender or his dependents.~~

~~(e) Any other factor which may bear upon the defendant's financial capacity to pay said fee.~~]

(7)[~~(6)~~] At any time during the pendency of the judgment or order rendered according to the terms of this section, a defendant may petition the releasing authority to modify or vacate its previous judgment or order on the grounds of change of circumstances with regard to the defendant's ability to pay *the* [~~said~~] fee. The releasing authority shall advise the defendant of this right at the time of the rendering of the judgment or order placing the defendant on probation, parole, or other supervised release.

(8)[~~(7)~~] All sums paid by the defendant pursuant to this section shall be paid into the general fund, *except as provided in subsection (13) of this section.*

(9)[~~(8)~~] When granting a release of any defendant by way of probation, parole, or otherwise, the releasing authority shall make the payment of this fee a condition of [~~such~~] release, unless the *fee has been waived, reduced or delayed as provided herein* [~~authority specifically waives the fee~~], and nonpayment shall be grounds for revocation of the release as provided in KRS 533.050.

(10) The releasing authority, if the corrections cabinet petitions the releasing authority to modify such fee, shall consider the petition and may waive the payment of the fee in whole or in part, delay payment of the fee, increase the fee, or deny the petition.

(11)[~~(9)~~] All fees fixed under the provisions of this section shall be collected by the circuit clerk of the county *where the defendant is supervised, except as provided in subsection (13) of this section* [~~involved~~].

(12)[~~(10)~~] The corrections cabinet and office of community services shall, for each person released under its supervision, keep an account of all payments made[~~, maintain copies of all receipts issued by the circuit clerk~~] and report delinquencies to the *releasing authority* [~~court~~].

(13)[~~(11)~~] In counties containing an urban-county form of government, persons placed by a releasing authority on probation, parole, or other release subject to supervision by the adult misdemeanant probation and work release agency of the urban-county government shall pay a fee to offset the costs of supervising the probation, parole, or other supervised release. The fees shall be assessed by the releasing authority in accordance with the provisions of [~~subsections (2), (3), (4), (5), (6), (8) and (9) of~~] this section. *The fee for a misdemeanant defendant placed under the supervision of an adult misdemeanant probation and work release agency of an urban county government shall be not less than one hundred dollars ($100) nor more than five hundred dollars ($500).* All sums paid by the defendant under this subsection shall be paid into the general fund of the urban-county government in lieu of the payment specified in subsection *(8)* [~~(7)~~] of this section. All fees fixed under this subsection shall be collected by the circuit clerk of the urban county involved. The adult misdemeanant probation and work release agency of the urban-county government shall, for each person released under its supervision, keep an account of all payments made, maintain copies of all receipts issued by the circuit clerk and report delinquencies to the court.

Section 3. To carry out the purposes of this Act, there is appropriated from the general fund of the state treasury for the 1989-1990 biennium the sum of $350,000.

Section 4. Section 1 of this Act shall become effective on July 1, 1989. Section 2 of this Act shall become effective on the normal effective date for legislation passed by the 1988 regular session of the general assembly.

The Committee on Health and Welfare reported **HB 791** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 791, AN ACT relating to occupational therapy.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 319A.010 is amended to read as follows:

As used in this chapter:

(1) "Board" means the Kentucky occupational therapy board appointed by the governor;

(2) "Occupational therapy" means the use of goal directed activities with individuals who are limited by physical limitations due to injury or illness, psychiatric and emotional disorders, developmental or learning disabilities, poverty and cultural differences or the aging process, in order to maximize independence, prevent disability and maintain health. The practice encompasses evaluation, treatment and consultation. Occupational therapy services include: teaching daily living skills; developing perceptual-motor skills and sensory integrative functioning; developing play skills and prevocational and leisure capacities; designing, fabricating, or applying selective orthotic and prosthetic devices or selective adaptive equipment; using specifically designed crafts and therapeutic activities to enhance functional performance; administering and interpreting tests such as manual muscle and range of motion; *using and administering certain modalities, specifically hot and cold water, hot packs and cold packs, neutral warmth, quick icing, and parafin to the hand;* and consulting in the adaptation of the environment for the handicapped. These services shall be provided individually, in groups,

or through medical, health, educational and social systems. The practice of occupational therapy shall not include gait training; the use or application of [~~thermal or~~] electromodalities; accessory joint mobilizations; assessment of integrity and pathology of muscle, soft tissue and joint capsule; and postural or biomechanical analysis; *fluidotherapy, diathermy (shortwave, microwave or infrared), ultrasound or whirlpools;*

(3) "Occupational therapist" means a person licensed to practice occupational therapy under this chapter;

(4) "Occupational therapy assistant" means a person licensed to assist in the practice of occupational therapy under this chapter, who works under the supervision of an occupational therapist;

(5) "Occupational therapy aide" means a person not licensed who assists in the practice of occupational therapy under the direct supervision of a licensed occupational therapist or occupational therapy assistant and who is required to have an understanding of occupational therapy but is not required to have professional or advanced training in the basic anatomical, biological, psychological, and social sciences involved in the practice of occupational therapy; and

(6) "Person" means any individual, partnership, or unincorporated organization, or corporation.

Section 2. KRS 319A.020 is amended to read as follows:

There is hereby created the Kentucky occupational therapy board which shall consist of five (5) members to be appointed by the governor. Three (3) members shall be licensed occupational therapists of at least five (5) years' experience; one (1) member shall be a certified occupational therapy assistant, certified by the American occupational therapy association, of at least five (5) years' experience in the practice of occupational therapy [~~in the Commonwealth~~]; and one (1) member shall be a consumer. The governor shall appoint the board within ninety (90) days after July 15, 1986 and annually thereafter.

Section 3. KRS 319A.100 is amended to read as follows:

A temporary permit to practice as an occupational therapist or occupational therapy assistant may be granted to a person who has completed the education and experience requirements of this chapter and has applied for licensure under the provisions of this chapter. The temporary permit shall allow the applicant for licensure to practice occupational therapy under the supervision of a licensed occupational therapist. The temporary permit shall be valid until the applicant for licensure is issued or denied a license under the provisions of this chapter, but in no instance shall the temporary permit extend for more than *sixty (60)* [~~thirty (30)~~] days following the *second* [~~first~~] examination offered after the applicant has applied for licensure. Not more than one (1) temporary permit shall be granted per applicant.

Section 4. KRS 319A.110 is amended to read as follows:

(1) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall file a written application on a form provided by the board, showing to the satisfaction of the board that such person:

(a) Is of good moral character; and

(b) Has successfully completed the academic requirements of an educational program in occupational therapy recognized by the board.

(2) The occupational therapy educational program shall be accredited by the committee on allied health education and accreditation of the American Medical Association in collaboration with the American Occupational Therapy Association, and shall be approved by the American Occupational Therapy Association.

(3) An applicant shall submit to the board evidence of successful completion of a period of supervised fieldwork experience arranged by the recognized educational institution where the applicant met the academic requirements or by the American Occupational Therapy Association. To be considered for licensure, the following minimum amount of supervised fieldwork experience shall have been completed:

(a) Six (6) months for an occupational therapist; and

(b) *Two (2)* [~~Four (4)~~] months for an occupational therapy assistant.

(4) An applicant for licensure as an occupational therapist or as an occupational therapy assistant shall pass an examination as provided for in KRS 319A.120.

Section 5. KRS 319A.150 is amended to read as follows:

The board shall issue a license to an individual who has met the requirements of this chapter upon the payment of the applicable license fee. An individual who is issued a license as an occupational therapist under the provisions of this chapter may use the title "[~~licensed~~] occupational therapist *licensed*," or use the letters "*O.T.R./L.*" [~~"L.O.T.R."~~] in connection with the title or place of business to denote his licensure. A person who is issued a license as an occupational therapy assistant may use the words "*certified* [~~"licensed~~] occupational therapy assistant *licensed*" or may use the letters "*C.O.T.A/L.*" [~~"L.O.T.A."~~] in connection with the person's name or place of business to denote licensure.

The Committee on State Government reported **HB 183** with Committee Substitute and Committee Amendments attached thereto, **HB 490, HB 699, HB 700, HB 963** with Committee Substitute and Committee Amendment attached thereto, **HB 990** with Committee Substitute attached thereto, **HB 1013** with Committee Substitute attached thereto, **HCR 109, HCR 110, SB 121, SB 145** with Committee Amendment attached thereto, **SB 192, SB 237, SB 270** and **SCR 69** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 183. AN ACT to allow voting place reassignment for handicapped voters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.065 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 of each year, establish the voting place for each precinct. If a change becomes necessary after that date, notice of change shall be published pursuant to KRS chapter 424. If a change becomes necessary on election day, notice shall be posted at the former voting place. The expense of renting voting places, for which rent of not less than twenty dollars ($20.00) shall be paid, shall be paid in the same manner as other election expenses.

(2) The county board of elections shall have the authority to designate as voting places, without cost to the board, buildings constructed in whole or in part with tax revenues.

(3) The county board of elections shall make every reasonable effort to designate as voting places only those places which are accessible to all eligible voters, including those with physical limitations and the elderly.

(4) The county board of elections shall have the authority to reassign to an accessible and usable polling place, any non-ambulatory or semi-ambulatory registered voter in the event that the voting place in the precinct of his residence is not accessible and usable and the county board of elections is prohibited by cost to make the voting place accessible.

(5) The county board of elections shall, upon advance request by the non-ambulatory or semi-ambulatory voter, give consideration to reassignment of the voting place when there are accessible and usable voting places within the magisterial district.

(6) This consideration may be given, notwithstanding KRS 117.075, and may apply to all federal, state, county, city and district elections.

The Committee Substitute to **HB 183** is as follows:

HB 183. AN ACT to allow voting place reassignment for handicapped voters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.065 is amended to read as follows:

(1) The county board of elections shall, not later than September 20 of each year, establish the voting place for each precinct. If a change becomes necessary after that date, notice of change shall be published pursuant to KRS chapter 424. If a change becomes necessary on election day, notice shall be posted at the former voting place. The expense of renting voting places, for which rent of not less than twenty dollars ($20.00) shall be paid, shall be paid in the same manner as other election expenses.

(2) The county board of elections shall have the authority to designate as voting places, without cost to the board, buildings constructed in whole or in part with tax revenues.

(3) The county board of elections shall make every reasonable effort to designate as voting places only those places which are accessible to all eligible voters, including those with physical limitations and the elderly.

(4) After the county board of elections has designated the voting place for each precinct, any eligible voter who is physically handicapped, or is elderly, and who finds his assigned voting place to be inaccessible, may apply to the county clerk for reassignment to an accessible voting place.

(5) The applicant shall notify the county clerk, not less than thirty (30) days before the election, in person or by mail, that the voting place to which he is assigned is inaccessible and that he therefore requests to be reassigned to an accessible voting place.

(6) The county board of elections shall reassign an applicant to an accessible voting place not less than fourteen (14) days before the election. The county clerk shall issue a certificate of reassignment to the voter which shall be presented by the voter at the voting place to which he has been reassigned. The county clerk shall also notify, in writing, the appropriate election official in the precinct from which the voter has been reassigned, that the voter shall not be eligible to vote in his former voting place.

(7) This consideration shall be given, notwithstanding KRS 117.075, and shall apply to all federal, state, county, city and district elections.

The Committee Amendment No. 1 to **HB 183** is as follows:

Amend printed copy of Committee Substitute to **HB 183** on page 2, after line 9, by inserting the following:

"*(6) The county board of elections shall, upon advance request by the handicapped or elderly voter, give consideration to reassignment of the voter when there are accessible and usable voting places which utilize a ballot identical to the ballot in his usual voting place. If no such voting place is available, the county clerk shall advise the voter that he may vote by special ballot as provided in KRS 117.075, or at his usual voting place.*"; and

On page 2, line 10, by deleting "*(6)*" and inserting in lieu thereof "*(7)*"; and

On page 2, line 11, after the word "*place*" by inserting the words "*as provided in subsection (6) of this section*"; and

On page 2, line 20, by deleting "*(7)*" and inserting in lieu thereof "*(8)*".

The Committee Title Amendment to **HB 183** is as follows:

Amend printed copy of **HB 183** on page 1, by deleting the title in its entirety, and inserting in lieu thereof: "AN ACT relating to voting place reassignment of elderly and physically handicapped voters."

HB 490. AN ACT relating to reorganization of revenue estimating and economic analysis functions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The office of revenue estimating and economic analysis established by KRS 42.014 shall be attached to the office of the secretary of the finance and administration cabinet. The functions and duties of the office shall include revenue estimating and economic analysis.

Section 2. KRS 41.390 is amended to read as follows:

(1) From time to time as the legal demands on the general fund or on the road fund render it necessary, the state treasurer, with the approval of the secretary of the finance and administration cabinet, may borrow such money as is necessary to discharge such demands and shall issue negotiable notes for the amount borrowed in anticipation of the receipt of revenues for the purposes and within the amounts of appropriations theretofore made for the fiscal year in which said negotiable notes are issued. These negotiable notes shall be due and payable on or before June 30 of the fiscal year for which the money is borrowed. The state treasurer shall obtain the lowest rate of interest possible to be determined by competitive bidding, but such rate of interest shall not exceed five per cent (5%) per annum. The sum borrowed shall not exceed seventy-five per cent (75%) of the estimated revenues then unrealized but still to be collected during the remainder of the fiscal year in which the money is borrowed. Such notes for the money so borrowed shall, with the interest thereon, be paid from revenues received by the general fund or the road fund, whichever fund the money is borrowed for; and so much of such revenues as will be sufficient to pay the amount borrowed shall be pledged to that object.

(2) "Estimated revenues" referred to in subsection (1) of this section shall mean the official estimates submitted to the governor by the secretary of the *finance and administration* [~~revenue~~] cabinet, including revisions of the estimates which the secretary of the *finance and administration* [~~revenue~~] cabinet may deem advisable from time to time.

Section 3. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the office of legal and legislative services, the office of management services, *the office of revenue estimating and economic analysis*, and the office of historic properties, each of which offices shall be headed by an executive director, the department for administration which shall be headed by a commissioner, and the department for facilities management which shall be headed by a commissioner, each of whom shall be responsible to the secretary and appointed by the secretary upon the approval of the governor. Each of these departments may have at least one major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into such offices, bureaus, divisions or other units as the secretary may deem necessary to perform the functions, powers and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 4. KRS 48.120 is amended to read as follows:

(1) By October 15 of each odd-numbered year the *finance and administration* [~~revenue~~] cabinet shall provide to each branch of government preliminary detailed revenue estimates for the general fund and road fund for the current and next two (2) fiscal years, including explanatory statements, and a comparative record of the actual revenues of these funds for each of the last two (2) years concluded.

(2) On or before the fifteenth (15th) legislative day, the *finance and administration* [~~revenue~~] cabinet shall certify and present to the general assembly the final detailed revenue estimates for these funds.

(3) Appropriations made in the joint budget resolutions enacted for each branch of government shall be based upon the revenue estimates presented to the general assembly by the *finance and administration* [~~revenue~~] cabinet under subsection (1) of this section, as modified by the appropriations committees of the general assembly.

Section 5. KRS 48.130 is amended to read as follows:

(1) The branch budget recommendation submitted by each branch of government shall include a plan for the reduction of the respective budget recommendations, by budget unit, when projected or actual tax receipts accruing to the general fund or road fund are at least two and one-half percent (2 1/2%) but not

more than five percent (5%) less than the revenue estimates for these funds as determined under subsection (3) of KRS 48.120.

(2) (a) In recommending budget reductions, the governor, the chief justice, and the legislative research commission shall not recommend universal percentage reductions, but shall weigh the needs of all budget units and shall strive to protect the highest possible level of service in their respective branches. Services which are not essential to constitutional functions shall be subject to reduction. Transfer of funds may be authorized by the budget reduction plan;

(b) In recommending budget reductions for the executive branch, the budget reduction plan provided for by subsection (1) of this section shall comply with the provisions of KRS 18A.1132;

(c) A layoff of state employes in the executive branch under the budget reduction plan enacted by the general assembly shall comply with the provisions of KRS 18A.1132; and

(d) A layoff of state employes in the executive branch required by an actual or projected deficit in tax receipts contemplated by subsection (5) of this section shall comply with the provisions of KRS 18A.1132.

(3) The plan shall be enacted as modified by the general assembly, in each joint budget resolution.

(4) In the event of an actual or projected deficit in tax receipts provided for by this section, the *finance and administration* [~~revenue~~] cabinet shall notify all branches of government:

(a) If funds that have accrued to the surplus accounts of the general or road funds are not sufficient to meet these deficits, the allotments to the respective branches shall be reduced according to the reduction provisions embodied in the joint budget resolution, and the governor, the chief justice, and the legislative research commission shall automatically implement budget reductions for their respective branches according to the reduction provisions embodied in the joint budget resolution; and

(b) In the event funds that have accrued to the surplus accounts of the general or road funds are sufficient to meet these deficits, transfers from these surplus accounts shall be made, as appropriate, and the budget reduction provisions embodied in the joint budget resolution shall not be implemented.

(5) In the event of an actual or projected deficit in tax receipts provided for by this section of less than two and one-half percent (2 1/2%), the governor, the chief justice, and the legislative research commission shall implement budget reductions for their respective branches on their own initiative.

(6) The budget reduction plan shall provide that the annual increment granted state employes under KRS 18A.355 shall be reduced as provided by KRS 18A.355. Any such reduction of the annual increment shall be uniform for all employes.

(7) If general fund or road fund tax receipts increase over the estimated deficits, then services shall be restored in the reverse order of the reduced services.

(8) This section shall not preclude the general assembly, in regular or special session, from amending a joint budget resolution requiring budget reductions nor shall it preclude the governor from calling a special session of the general assembly at any time the budget reduction plan is in effect.

Section 6. KRS 48.140 is amended to read as follows:

(1) The branch budget recommendation submitted by the governor, the chief justice, and the legislative research commission shall include a plan for the expenditure of general or road fund tax receipts up to two and one-half percent (2 1/2%) in excess of the tax receipts estimates for the funds as determined by subsection (3) of KRS 48.120.

(2) The plan shall contain provisions for the expenditure of such excess general fund and road fund tax receipts. This plan shall provide for additional moneys for non-recurring expenditures for which an appropriation was not made in a joint budget resolution, or for a program or service authorized by law for which an appropriation was not made or which program was not fully funded. No expenditure shall be

recommended for any other purpose.

(3) In lieu of recommending the expenditure of such sums, the governor, the chief justice, or the legislative research commission, may elect to recommend the return of such sums or any portion thereof to the surplus account of the general fund or road fund for investment until such time as it is appropriated by the general assembly.

(4) A plan for the expenditures of such surplus funds shall be enacted as modified by the general assembly, in each joint budget resolution.

(5) In the event of a surplus in tax receipts provided for by this section, the *finance and administration cabinet* [~~department of revenue~~] shall notify all branches of government.

(6) Any general or road fund receipts in excess of two and one-half percent (2 1/2%) of the tax revenue estimates determined under subsection (3) of KRS 48.120, or in excess of any appropriation made in a joint budget resolution applying such receipts shall not be expended but shall accrue to the surplus account of the general fund or road fund for investment until appropriated by the general assembly.

(7) Unless required by the budget reduction provisions in a joint budget resolution no funds shall be transferred from one budget unit to another budget unit.

(8) Surplus funds in any account, unless a statute requires otherwise, shall lapse to the surplus account of the general fund for investment until appropriated by the general assembly.

(9) Funds in the surplus account of the general fund may be used for current expenditures as authorized by the budget reduction provisions of a joint budget resolution.

Section 7. KRS 48.600 is amended to read as follows:

(1) In the event of an actual or projected deficit, as determined by the *finance and administration cabinet* [~~department of revenue~~], in total tax receipts, as specified in KRS 48.130, of less than five percent (5%), the governor, the chief justice, and the legislative research commission shall make such allotment reductions for the budget units of their respective branches of government as are deemed necessary, and shall take such steps to revise allotments for their respective branches as are necessary to prevent a cash deficit.

(2) Such allotment revisions shall be reported to the standing appropriations and revenue committees of each house or to the interim joint committee on appropriations and revenue, as appropriate.

Section 8. KRS 131.020 is amended to read as follows:

(1) The revenue cabinet shall be headed by the secretary of revenue, who shall be the executive officer and shall have sole charge of the administration of the cabinet, and shall perform all functions of the cabinet.

(2) The revenue cabinet shall be organized into the following functional units:

(a) Office of the secretary. The office of the secretary shall include such principal assistants and personnel appointed by the secretary pursuant to KRS Chapter 12 as are necessary to enable the secretary to perform functions of his office;

(b) [~~Office of revenue estimating and economic analysis. The office of revenue estimating and economic analysis shall be headed by an executive director who shall be appointedby the secretary pursuant to KRS Chapter 12. The functions and duties of the office shall include revenue estimating and economic analysis;~~

~~(c)~~] Department of property taxation. The department of property taxation shall be headed by a commissioner. The functions and duties of the department shall include mapping, providing assistance to property valuation administrators, supervising the property valuation process throughout the Commonwealth, valuating the property of public service companies, and administering intangible taxes;

(c)[~~(d)~~] Department of processing and enforcement. The department of processing and enforcement shall be headed by a commissioner. The functions and duties of the department shall include recordkeeping, providing data services, conducting audits, providing liaison with federal and state agencies, rendering taxpayer assistance, and collecting delinquent taxes;

(d)[~~(e)~~] Department of professional and support services. The department of professional and support services shall be headed by a commissioner. The functions and duties of the department shall include reviewing audits, conducting conferences, issuing final rulings, administering taxpayer protests, establishing revenue cabinet tax policies, representing the revenue cabinet in legal and administrative actions, providing management analysis, preparing publications, and providing personnel, fiscal and word processing services.

(3) The revenue cabinet shall be organized for administrative convenience into divisions in accordance with KRS Chapter 12.

(4) The revenue cabinet shall fully cooperate with and make information on tax receipts available to the finance and administration cabinet's office of revenue estimating and economic analysis as necessary for the office to perform its duties.

Section 9. KRS 176.270 is amended to read as follows:

On or before June 1 of each year [~~beginning with the year 1951~~], the *finance and administration cabinet* [~~department of revenue~~] shall furnish to the *department* [~~bureau~~] of highways estimates of income for the ensuing fiscal year. Upon the request of the *department* [~~bureau~~] of highways the *finance and administration cabinet* [~~department of revenue~~] shall, from time to time, furnish revised estimates of income.

Section 10. KRS 177.360 is amended to read as follows:

(1) The department of rural and municipal aid shall allocate the funds set apart under KRS 177.320(1) for construction, reconstruction and maintenance of state maintained secondary and rural highways as follows:

(a) One-fifth (1/5) shall be apportioned equally among the one hundred twenty (120) counties.

(b) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the rural population of each county bears to the total rural population of the state. "Rural population" as used here means the population in a county outside cities, towns and urban areas having a population of twenty-five hundred (2,500) or more as shown by the most recent decennial census of the United States bureau of the census, and county population shall be determined by the most recent decennial census of the United States bureau of the census.

(c) One-fifth (1/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio that the public road mileage outside of cities, towns and urban areas having a population of twenty-five hundred (2,500) or more bears to the total mileage of such roads for the entire state.

(d) Two-fifths (2/5) shall be apportioned among the one hundred twenty (120) counties on the basis of the ratio which the square-mile rural area of the county bears to the total square-mile rural area of the state. "Rural area" as used here means that area of the county outside of cities, towns and urban areas having a population of twenty-five hundred (2,500) or more and shown by the most recent decennial census of United States bureau of the census.

(2) A sum not exceeding six percent (6%) of the allocation provided by KRS 177.320(1) to each county shall be deducted at the beginning of each fiscal year and adjusted quarterly to cover the maintenance, administrative, engineering and other costs of the program.

(3) Of the total amount apportioned by the provisions of this section, a sum not exceeding six percent (6%) may be deducted and placed by the department of rural and municipal aid in a special emergency account to be expended at the direction of the commissioner to meet unforeseen emergencies on rural and secondary roads and bridges.

(4) Apportionments as required by the provisions of this section shall be made on the basis of revenue

estimates supplied by the *finance and administration* [~~revenue~~] cabinet and adjusted quarterly in accordance with the most recent revision of the estimates by the *finance and administration* [~~revenue~~] cabinet.

Section 11. KRS 177.366 is amended to read as follows:

(1) On and after July 1, 1980, the department of finance shall allocate to each incorporated city and "unincorporated urban place" its pro rata share of the funds set apart for construction, reconstruction, and maintenance of urban roads and streets on the basis of the ratio which the population in said incorporated cities and in "unincorporated urban places" bears to the total population in incorporated cities and in "unincorporated urban places" of the state. "Unincorporated urban places" as used here means an area outside of incorporated cities which area has a population of 2,500 or more as shown by the most recent decennial census of the United States bureau of the census, and all populations shall be determined by the most recent decennial census of the United States.

(2) Any area which becomes incorporated after December 31, 1970, shall not be eligible to participate in the municipal aid program until the beginning of the second fiscal year following its incorporation and population certification. It shall be the responsibility of the newly incorporated area to provide the department of finance with documentation from the United States bureau of the census showing the population of the newly incorporated area as it existed at the time of the last decennial census.

(3) In the event the newly incorporated area cannot obtain a population count from the bureau of the census, it shall not be eligible to participate in the municipal aid program until the next decennial census.

(4) If an incorporated city, whose incorporation took place prior to December 31, 1970, annexes additional area, the population of the annexed area will not be counted in the allocation of municipal aid funds until the beginning of the second fiscal year following annexation and population certification.

(5) It shall be the responsibility of the incorporated city to provide the department of finance with documentation from the United States bureau of the census showing the population for the annexed area as it existed at the time of the last decennial census.

(6) In the event the incorporated area cannot obtain a population count from the bureau of the census, the annexed area's population will not be eligible to be counted in the distribution of the municipal aid fund. However, the streets included in the annexed areas will be eligible to receive work through this program.

(7) Apportionments as required by the provisions of this section shall be made on the basis of revenue estimates supplied by the *finance and administration cabinet* [~~department of revenue~~] and shall be adjusted quarterly in accordance with the most recent revision of the estimates by the *finance and administration cabinet* [~~department of revenue~~].

Section 12. KRS 248.550 is amended to read as follows:

(1) The amount of revenues collected and/or credited to the tobacco research-trust fund shall be appropriated each year to the University of Kentucky tobacco and health research institute to finance tobacco research projects and programs as provided in KRS 248.510 to 248.570 and shall be expended by the institute only on those projects and programs authorized by the Kentucky tobacco research board.

(2) The *finance and administration cabinet* [~~department of revenue~~] shall supply revenue estimates of the amount of revenue anticipated to be collected during each fiscal year by the added one-half cent (1/2) tax on cigarettes which estimate, along with any federal funds available, shall be the basis for preparing tobacco research programs and budget requests for each fiscal year.

Section 13. The General Assembly hereby confirms the reorganization effected by Executive Order 87-66, issued December 30, 1987, transferring the Office of Revenue Estimating and Economic Analysis from the Revenue Cabinet to the Finance and Administrative Cabinet.

HB 699, AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.150 is amended to read as follows:

(1) An honorably discharged war veteran, a member of the Kentucky national guard, or a former member of the Kentucky national guard who has been honorably discharged shall have five (5) points added to his entrance examination score for classified positions.

(2) Any honorably discharged war veteran whom the veterans administration or any branch of the armed forces of the United States determines has service-connected disabilities shall have ten (10) points added to his entrance examination score for a classified position.

(3) The spouse of an honorably discharged war veteran who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies him for positions along the general line of his usual occupation shall have ten (10) preference points added to his entrance examination score for a classified position. In such a case, the spouse loses the right to preference if the disabled war veteran recovers.

(4) Until remarriage, the surviving spouse of an honorably separated war veteran shall have ten (10) preference points added to his entrance examination score for a classified position. This includes the surviving spouse of a war veteran who died while in the armed forces, unless circumstances surrounding the death would have been cause for other than honorable separation.

(5) A parent totally or partially dependent on a war veteran who lost his life under honorable conditions while on active duty or active duty for training purposes or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to his examination score for a classified position.

(6) War veterans and their spouses, widows, widowers, and parents eligible for preference points shall have them added to their entrance examination scores for classified positions only if the score is determined by the commissioner to be a passing score and after verification of the required service.

(7) A war veteran, as described in KRS 18A.005, who has purchased or received retirement credit pursuant to KRS 61.555, shall be credited with years of service, equivalent to his military retirement credit, toward attaining the status of career employe as described in KRS 18A.005.

HB 700. AN ACT relating to the Kentucky judicial form retirement system.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) In a situation in which, by reason of federal tax law, the failure to commence the payment of retirement benefits to a vested member of the Kentucky judicial retirement plan, by a specified date after the member reaches a specified age, as designated by the federal tax law, will result in the imposition of a special excise tax, the member, without retiring, shall be entitled, as of the specified date, to commence drawing from the plan the monthly benefit he would have been entitled to had he retired on that date. Notwithstanding the provisions of KRS 21.360 and 61.680, the member, at his option, may continue to be a participating member of the plan thereafter until he retires, or, may elect to cease to be a participating member of the plan, in which latter event he shall not be required to become a participating member of the Kentucky employes retirement system.

(2) A member drawing benefits from the Kentucky judicial retirement plan pursuant to subsection (1) of this section who elects to continue as a participating member of the plan, or a person drawing benefits from the plan by reason of having retired, who by reason of reemployment again becomes a participating member of the plan, shall continue to draw the benefits until he retires, and accrue additional benefits, but in the calculation of the additional benefits only the years of service after he commenced drawing the initial benefits shall be counted, and the monthly additional benefit shall not exceed such amount as, when added to the initial monthly benefit, will equal the final compensation on which the additional benefit was calculated. The member's surviving spouse, if married to the member at the time of his ultimate retirement, shall be considered to be the surviving spouse with respect to both the additional and the initial benefits.

SECTION 2. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

If the taking of a refund of contributions by a member of the Kentucky judicial retirement plan, when first entitled thereto, would subject the member to a federal excise tax, by reason of the refund's being made before the member has reached an age designated by the federal taxing act, and the member has elected, pursuant to KRS 21.460, to defer taking a refund, so much of the contributions as would have been subject to the excise tax shall accrue interest at the rate of six percent (6%) per annum, from the date the member first could have taken a refund until the date the refund is taken or the date as of which the federal excise tax no longer would apply to a refund, whichever is sooner, the interest to be paid by the plan at the time of the refund.

Section 3. KRS 21.345 is amended to read as follows:

(1) For the purposes of KRS 21.350 to 21.510, "retirement" means a voluntary resignation or a failure of re-election, but does not include a removal for cause.

(2) The word "service" as used in KRS 21.370 to 21.480 means service as a justice of the Supreme Court, as a judge of the Court of Appeals created by Section 111 of the Constitution of Kentucky, as a regular circuit judge, or as a regular judge of the district court, including service in one (1) and then another of those capacities. It also includes service as a special circuit judge under the conditions described in subsection (3) of this section, as a judge or commissioner of the former Court of Appeals, or as director of the administrative office of the courts, prior to January 1, 1976, and service continuing beyond that date, in any capacity in or for the Court of Justice, by any person who held the office of commissioner of the former Court of Appeals, or director of the administrative office of the courts, on December 31, 1975. The word "service" embraces only service performed while a member of the retirement system established by KRS 21.350 to 21.510, except that service in any of the positions hereinabove mentioned, before the judicial retirement system was made applicable to that category of position, shall be included.

(3) For the purposes of KRS 21.345 to 21.510, a "year" of service means a total of twelve (12) months of service, which need not be in the same calendar year. Service *for any part of the* [~~in any~~] calendar month *in which the member's term of service begins or ends* shall be deemed to constitute a month of service. [~~If within any period of three (3) consecutive calendar years before he became a member of the judicial retirement system, a member retiring after the effective date of this section served at least twelve (12) months as a special circuit judge, under one (1) or more designations to hold court for a specified period in place of the regular judge, he shall thereby be given credit for the months of such service.~~]

(4) The provisions of this section shall not apply to any director of the administrative office of the courts appointed after January 1, 1976, nor shall they apply to any commissioner of the Court of Appeals not appointed prior to January 1, 1976. The administrative director of the courts and commissioners of the Court of Appeals appointed prior to January 1, 1976, shall continue to be members of the system so long as they continue to render service in any capacity in or for the Court of Justice.

Section 4. KRS 21.525 is amended to read as follows:

(1) The state, by appropriation to the judicial retirement board, shall contribute annually to the judicial retirement system an amount equal to the percent as computed under subsection (2) of this section of the creditable compensation of active members of the judicial retirement system, to be known as the "normal contributions," and an additional amount equal to one percent (1%) of the unfunded past service liabilities, plus annual interest accruing thereon at the actuarially assumed rate of interest adopted by the board to be known as the "past service contribution."

(2) The normal contribution rate shall be determined *either* by the entry age normal cost funding method *or the unit credit actuarial method, as selected by the board.* The past service liability shall be determined by actuarial methods consistent with the methods prescribed for determining the normal contribution rate. *The board shall adopt the actuarial assumptions that are to be used in making the determinations.* [~~Normal contributions and the past service liability contribution shall be determined on actuarial bases adopted by the board.~~]

(3) Normal contributions and the past service *liability* contribution *for each fiscal biennium* [~~rates~~] shall be determined [~~by the board~~] on the basis of the actuarial valuation last preceding the *commencement of the* [~~July 1 of a new~~] biennium.

Section 5. KRS 6.525 is amended to read as follows:

The legislators' retirement plan shall be governed by provisions identical in terms with those provided in *Sections 1 and 2 of this Act and in* KRS 21.345(1) and (3), 21.370, 21.375, 21.380, 21.410, 21.420, 21.425, 21.460, 21.470, 21.480, 21.525 and 61.552 for the judicial retirement plan, except that:

(1) Five (5) years of service as a legislator will be sufficient for vesting; and

(2) A member of the legislators' retirement plan may combine his service credit with his service credit in the teachers' retirement system, Kentucky employes' retirement system, county employes' retirement system and state police retirement system at the time of his retirement, according to the procedure of KRS 61.680 (2)(a). A member of the legislators' retirement plan may retire at the completion of thirty (30) or more years of combined service credit, so long as at least fifteen (15) years of such credit were earned after January 1, 1960, and there shall be no reduction in the retirement allowance because of retirement before the age of sixty-five (65). For the purposes of this section, any reference in the KRS sections listed above, to the judicial retirement plan shall also be read as a reference to the legislators' retirement plan, and any reference to the legislators' retirement plan shall also be read as a reference to the judicial retirement plan.

SECTION 6. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) (a) The board of trustees of the judicial form retirement system shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the judicial retirement plan, and their dependents. For recipients, or dependents, eligible for medicare coverage, the board shall provide medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employes group insurance and the board may arrange for the recipients to be included in the major state employes group.

(b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the judicial retirement plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

(2) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	*Percentage of Premium*
240 or more	*100%*
180 to 239, inclusive	*75%*
120 to 179, inclusive	*50%*
48 to 119, inclusive	*25%*

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining, if any, percentage of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.

(3) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

Section 7. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event

to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962 creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 through 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a circuit judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) of this section, on the basis of the number of years of his actual service.

(3) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced *at the rate of five percent (5%) for each year by which* [~~actuarially in accordance with~~] his actual age at the time the election is made *is lower than the normal retirement age.*

HB 963, AN ACT relating to the Kentucky development finance authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.005 is amended to read as follows:

It *shall be* [~~is~~] the purpose of this chapter to *create a body corporate and politic to be known as the "Kentucky development finance authority" which shall exist and operate to help diversify the economy of this state, to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment* [~~promote the health, safety, morals, right to gainful employment, business and economic development opportunities and general welfare of the inhabitants of the Commonwealth by the creation of a body corporate and politic to be known as the "Kentucky development finance authority" which shall exist and operate for the public purpose of alleviating unemployment and furthering the utilization of natural and man-made resources by the promotion and development of business, industrial, manufacturing, tourist and agricultural enterprises in local communities of the Commonwealth~~]. Such purposes *shall* [~~are hereby declared to~~] be public purposes for which public money may be spent.

Section 2. KRS 154.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Authority" means the Kentucky development finance authority;

(2) *"Board" means the board of directors of the authority;*

(3) "Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold improvements, machinery, equipment, or furnishings; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(4) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 et seq.;

(5) "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, or industrial purposes; or a public utility or local industrial development corporation;

(6) "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

(7) "Project" means an endeavor approved by the commerce cabinet and related to industrial, manufacturing, mining, commercial, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydro electric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing; and

(8) "State" means the Commonwealth of Kentucky.

[~~"Borrower" means any person, partnership, corporation, cooperative, government or other legal entity;~~

~~(3) "Eligible project" means any facility or undertaking involving non-retail business or industry for the manufacturing, servicing, processing, storing, warehousing, distributing, preparing or assembling of any product, including but not limited to agricultural, mining, manufacturing or timber products; any facility or undertaking for any tourism related activity; or any facility or undertaking incidental to the development of sites, including but not limited to land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for commercial use;~~

~~(4) "Assistance fee" means any payment made by the authority to the insurance corporation from one (1) of the mortgage insurance funds in the establishment of a project;~~

~~(5) "Contract" means the agreement between the authority and the insurance corporation under the terms of which the latter undertakes to insure the payment of mortgage loans;~~

~~(6) "Federal application" means an application to the government;~~

~~(7) "Government" means the United States of America or one (1) of its agencies which is authorized to make or to guarantee loans for an eligible project, including the small business administration, the farmers home administration, the economic development administration, the department of housing and urban development and the Appalachian regional commission;~~

~~(8) "Insurance corporation" means that nonprofit mortgage insurance corporation which may be~~

~~established at the request of the authority as provided in KRS 154.040;~~

~~(9) "Loan application" means either an application for a direct loan to be made from the funds appropriated to the authority for the purpose, or an application for insurance of a loan made or to be made by another governmental lender or by a private person or corporation, whether on an interim or a permanent basis;~~

~~(10) "Mortgage insurance fund" means those funds granted to the insurance corporation to be held in a trust account as reserve for insurance commitments and from which valid insurance claims shall be paid;~~

~~(11) "Guarantee" means the insurance or guarantee, by the insurance corporation, of the repayment of a first mortgage loan or the repayment of the debt arising from the issuance of industrial development revenue bonds issued under KRS Chapter 103;~~

~~(12) "Trust account" means that account in one (1) or more trust companies in the name of the insurance corporation into which shall be paid all of the assistance fees and mortgage insurance funds paid to the insurance corporation under the contract with the authority;~~

~~(13) "Bond" means a revenue bond issued under the provisions of KRS 103.200 to 103.285, or issued under the provisions of this chapter; and~~

~~(14) "Umbrella bond" means a revenue bond issued under the provisions of this chapter, the proceeds of which may be used to make loans which are secured by guarantees of the government or the insurance corporation and which may be used to finance more than one (1) project.~~]

Section 3. KRS 154.020 is amended to read as follows:

(1) There shall be a development finance authority in the state government which shall be known as the Kentucky development finance authority, which shall be an independent agency of the Commonwealth reporting to the secretary of the commerce cabinet, but not attached to any administrative department.

(2) The authority shall consist of the secretary of the commerce cabinet, the secretary of the tourism cabinet, and the secretary of the finance and administration cabinet, and eleven (11) at large members appointed by the governor. Of the eleven (11) at large members, three (3) shall be representative of industrial or manufacturing interests, three (3) shall be representative of agricultural interests, three (3) shall be representative of tourism interests and two (2) shall represent the public at large. The chairman shall be the secretary of the commerce cabinet *and the vice-chairman shall be the secretary of the finance and administration cabinet* [~~who may appoint a deputy secretary of the commerce cabinet to serve as chairman. Each ex-officio member of the authority, as described in this section, may appoint in writing a substitute, who shall have full voting and other powers as a member of the authority or of the board, as the case may be. The writing by which the appointment is made shall be filed as a part of the records of the authority~~].

(3) [~~The terms of all appointive members of the former industrial development finance authority shall be deemed to have expired as of midnight on June 30, 1978. The terms of the new appointed members of the Kentucky development finance authority shall commence as of July 1, 1978.~~

~~(4)~~] Two (2) members initially appointed by the governor shall be appointed for a term of one (1) year, two (2) members for two (2), two (2) for three (3), and three (3) for four (4) years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the governor at the time of his appointment. Their successors shall each be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member of the authority shall be eligible for reappointment.

(4)[~~(5)~~] Members of the authority shall be entitled to compensation for their services as members in the amount of one hundred dollars ($100) for each regular meeting of the authority, and shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

(5) A majority of the members shall constitute quorum for the purpose of organizing the authority and conducting the business thereof, and all action may be taken by a vote of a majority of the members present, except where regulations of the authority prescribe a larger number.

(6) The authority may make reimbursement to any agency of the state for special expenses incurred in the provision of any services or the use of any facilities required by the authority.

Section 4. KRS 154.023 is amended to read as follows:

The authority shall be subject to the regular supervision and examination by the department of financial institutions described in KRS 287.450 and 287.460; however, the authority shall not be subject to any other *statutes regulating banking or insurance companies or administrative regulations promulgated under statutes governing banking or insurance companies* [~~banking regulations stipulated in KRS Chapter 287 nor any administrative regulations promulgated thereunder~~].

Section 5. KRS 154.025 is amended to read as follows:

(1) [~~The authority shall make all policy as it pertains to loans, or other forms of financial assistance.~~

~~(2)~~] The authority shall make all policy as it pertains to personnel, consultants, payroll and other expenses. The authority may request that the secretary of the development cabinet assign housekeeping duties to one (1) of its departments and the secretary of the development cabinet shall honor such request. Housekeeping duties *shall* include, by way of example, those functions normally performed by a fiscal officer and personnel officer.

(2)[~~(3)~~] The authority may appoint an executive director and fix his salary, subject to the approval of the commissioner of personnel. The executive director shall perform, in the name of the authority, such functions and duties and may exercise such powers of the authority as the authority may delegate to him, including the provision of staff services for the authority and each committee thereof. The executive director shall be dismissed only with the approval of the authority.

Section 6. KRS 154.035 is amended to read as follows:

[~~(1)~~] In order to expedite the routine business of the authority, the chairman may appoint a three (3) member executive committee which may include the chairman. *The* [~~Such a~~] committee, if appointed, shall have the authority to approve or authorize the approval of substitution of collaterals, releases in the case of sales, deferment of principal payments for a period of not longer than six (6) months, subordination of a prior lien of the authority for an improvement to premises in which the lien exists not to exceed the cost of the improvement, and such other authority to determine an immediate course of action and to authorize or approve minor changes in loan conditions which are not inconsistent with the policies established by the authority.

[~~(2) The chairman may also, in order to expedite the review and processing of loan applications for industrial, agricultural and tourism projects, appoint three (3) member loan advisory committees in the areas of industrial development, agriculture, and tourism. Such committees, if appointed, shall review and evaluate all loan applications relevant to their respective mortgage insurance fund and make recommendations to the authority.~~]

SECTION 7. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

The authority shall have the powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this chapter, the purposes and objectives of the authority and the powers delegated by other laws or executive orders, including but not limited to the power to:

(1) Sue and be sued; to have a seal and alter the same at pleasure; to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and to make and amend bylaws;

(2) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a municipality or any agency of the federal, state, or a municipality, or to participate in any other way in any federal, state, or local government program;

(3) Make grants, loans, and investments; to guarantee and insure loans, leases, bonds, notes or other

indebtedness, whether public or private; and to issue letters of credit;

(4) Construct, acquire by gift, purchase, installment purchase, or lease; and reconstruct, improve, repair, or equip a project or any part of a project;

(5) Borrow money and issue bonds and notes to finance part or all of the costs of a project, or of a loan pursuant to subsection (18) of this section for an export transaction, and to secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. The authority provided by this subdivision shall include, but is not limited to, issuing bonds and notes to acquire and install machinery, equipment, furnishings, and other personal property, notwithstanding that the authority does not own or propose to own or finance the building or land in or near to which the machinery, equipment, furnishings, and other personal property is or is to be located;

(6) Acquire or contract to acquire from any person, municipality, the federal or state government, or any agency of the foregoing, or otherwise, leaseholds, real or personal property or any interest in real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber leaseholds, real or personal property or any interest in real or personal property, as is convenient for the accomplishment of the purposes of this chapter and of the authority;

(7) Procure insurance against any loss in connection with the authority's property, assets, or activities;

(8) Invest any money of the authority, prior to the time it may be needed for the authority's programs, at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money;

(9) Engage personnel as necessary and engage the services of private consultants, managers, counsel, auditors, engineers, and scientists for rendering professional management and technical assistance and advice, payable out of any money of the authority legally available for this purpose;

(10) Charge, impose, and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges;

(11) Indemnify and procure insurance indemnifying any members of the board from personal loss or accountability from liability asserted by a person on the bonds or notes of the authority or any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; by reason of acquisition, construction, ownership, or operation of a project; or by reason of any other action taken or the failure to act by the authority;

(12) Enter into a lease for the use or sale of a project. The lease may provide for options to purchase or renew;

(13) Mortgage or create security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the bonds or notes issued by the authority;

(14) Convey or release a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes, at any time the obligation of the lessee, purchaser, or borrower to make the payments prescribed shall remain fixed as provided in the agreement notwithstanding the conveyance or release, or as may otherwise be agreed with the holders of the bonds or notes;

(15) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclosure on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property which was the subject of the mortgage at a foreclosure or other sale, acquire or take possession of the property and, in that event, complete, administer, pay the principal and interest on obligations incurred in connection with the property, and dispose of and otherwise deal with the property, in a manner as may be necessary or desirable to protect the interests of the authority;

(16) Create accounts and funds as required or permitted by law for the use and disbursement of assets of the authority;

(17) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority;

(18) Make loans to a financial institution to facilitate financing of all or part of an export related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(19) Promulgate administrative regulations governing its proceedings;

(20) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this chapter, or other laws that relate to the purposes and responsibilities of the authority.

SECTION 8. A NEW SECTION OF KRS CHAPTER 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) The authority may borrow money and issue bonds or notes, subject to KRS 42.420, for the following purposes:

(a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; to make loans for th cost of a project or any part thereof; to make loans pursuant to subsection (18) of Section 7 of this Act for an export related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;

(b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section;

(c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment thereof as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the board, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be:

(a) Made the subject of a put or agreement to repurchase by the authority or others;

(b) Secured by a letter of credit or by any other collateral which the resolution may authorize;

(c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.

(4) The authority may authorize its chairman or other officer to, by order:

(a) Sell and deliver, and receive payment for notes or bonds;

(b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds;

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.

(6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(7) A resolution authorizing notes or bonds may contain any or all of the following convenants which shall be a part of the contract with the holders thereof:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;

(b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter.

(d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;

(e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;

(f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;

(g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;

(h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;

(i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside

this state to accomplish any of the foregoing;

(j) Providing for the payment of maintenance and repair costs of a project;

(k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;

(l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the circuit court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and

(m) Providing for any other matters, of like or different character, which in any way effect the security or protection of the notes or bonds.

(8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.

(9) Neither the members of the board nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.

(10) The state shall not be liable on notes or bonds of the authority nor shall the notes or bonds be considered a debt of the state. The notes and bonds shall contain on the face thereof a statement indicating this fact.

(11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.

(12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

SECTION 9. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Assistance to private enterprise shall be funded by an account, which shall be established and managed by the authority, to be known as the private enterprise assistance account.

(2) The authority shall pay into the account any money appropriated or otherwise provided by this state for that purpose; any money which the authority receives in repayment of loans as assistance to private enterprise; and any other money made available to the authority for assistance to private enterprise from any other source, public or private.

(3) Money in the private enterprise assistance account may be transferred into any other account established

by the authority, unless the authority is otherwise obligated to retain the money in the private enterprise assistance account or if the money was appropriated by this state solely for that purpose.

SECTION 10. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Loans made from the private enterprise assistance account:

(a) May be used for any purpose consistent with the purposes and objectives of the authority and this chapter including, but not limited to, the acquisition, improvement, or rehabilitation of land and buildings; the acquisition of machinery, equipment, or services; working capital; or any other purpose reasonably related to a project;

(b) May be made to any person or entity, public or private, organized for profit or not for profit;

(c) May be made on the terms and conditions the authority shall, in its sole discretion, determine to be reasonable, appropriate, and consistent with the purposes and objectives of the authority and this chapter, which may include, but not be limited to, the pledging of adequate security; and

(d) Shall be made on the condition that the recipient of the loan will utilize the money to assist a project within this state which has the potential for creating new jobs or retaining current jobs within this state.

(2) A loan shall not be made from the private enterprise assistance account for a project unless:

(a) Significant private sector financial support is associated with the project; and

(b) The authority is legally assured that the money will be used to assist a project which also will have significant private sector financial support.

(3) The authority shall give paramount priority in making loans from the private enterprise assistance account to projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

SECTION 11. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Loan insurance shall be funded by an account, which shall be established and managed by the authority, to be known as the loan insurance account.

(2) The authority shall pay into the account any money appropriated or otherwise provided by this state for that purpose; any money which the authority receives as fees or premiums for its provision of loan, lease, or debenture insurance; loan, lease, or debenture guarantees; or letters of credit; and any other money made available to the authority for the purpose of loan insurance from any other source, public or private.

(3) Money in the loan insurance account may be transferred into any other account established by the authority, unless the authority is otherwise obligated to retain the money in the loan insurance account or if the money was appropriated by this state solely for that purpose.

SECTION 12. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) The authority may insure, guarantee, or issue letters of credit for all or a part of a loan or debenture of others, public or private.

(2) The authority may insure, guarantee, or issue letters of credit for all or a part of a lease entered into by others, public or private.

(3) The authority may procure insurance, a guarantee, or a letter of credit from any source for all or a part of a loan, debenture, or lease of others, public or private. The authority may procure insurance, a guarantee, or a letter of credit for either a single loan, debenture, or lease or for any combination of loans, debentures, or leases.

(4) The authority may insure, guarantee, or issue letters of credit for all or a part of a revenue bond issued by the authority, another state agency or authority, or another entity or authority authorized by law to issue revenue bonds.

(5) The authority may procure insurance, a guarantee, or a letter of credit for all or a part of a revenue bond issue of the authority, another state agency or authority, or another entity or authority authorized by law to issue revenue bonds. The authority may procure insurance, a guarantee, or a letter of credit for either all or part of a single revenue bond issue or for all or a part of any combination of revenue bond issues.

SECTION 13. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

To provide loan insurance pursuant to Sections 11 and 12 of this Act, the authority may enter into a contract of insurance. The Kentucky insurance code shall not apply to the insurance contract, and the authority shall not be considered an insurer subject to the Kentucky insurance code by virtue of entering into the contract.

SECTION 14. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Insurance, guarantees, or letters of credit provided or procured pursuant to Sections 11 and 12 of this Act shall be provided or procured only for projects within this state which are consistent with the purposes and objectives of the authority and this chapter.

(2) The authority shall give paramount priority in providing or procuring insurance, guarantees, and letters of credit to projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

SECTION 15. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Insurance, guarantees, or letters of credit shall not be provided or procured unless the authority shall be legally assured that the loans, debentures, or leases insured, or guaranteed, or for which letters of credit are issued, will be used to assist projects which also have significant private sector financial support.

(2) Insurance, guarantees, or letters of credit may be provided or procured on the terms and conditions the authority, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the authority and this chapter.

(3) The authority may charge the lender or the borrower, or both, a fee or premium for loan, debenture, or lease insurance, guarantee, or letter of credit. Guidelines for premiums or fees charged by the authority for loan, debenture, or lease insuranced guarantees, or letters of credit shall be established by the authority.

SECTION 16. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

The authority may enter into agreements with lenders for participation in loan insurance. The agreements may include, but need not be limited to:

(1) Authorization for the lender to determine, collect, and transmit to the authority a fee or premium charge within a specified range established consistent with the purposes and objectives of the authority;

(2) Specification of whether the premium charge shall be paid by the lender, the borrower, the authority, or by a combination thereof in specified proportions;

(3) The procedure by which a lender may make a claim upon the authority upon default by the borrower and the conditions under which a claim may be made;

(4) The maximum amount of claims a lender may make upon the authority, which amount may be equal to, greater than, or less than the proportion of the total premiums collected by the authority which is accounted for by premiums collected by the lender.

SECTION 17. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

The authority may establish a special fund or funds solely to secure some or all of its obligations within the loan insurance account into which fees or premiums collected by the authority for loan, debenture, or lease insurance, guarantees, or letters of credit may be deposited.

Section 18. The following KRS sections are repealed:

154.030 Quorum and majorities — Reimbursement of other agencies.

154.040 Powers of authority.

154.050 Examination of projects.

154.060 Administrative regulations.

154.070 Application for assistance.

154.130 Terms of loans.

154.160 Financial interests of authority members.

The Committee Substitute to **HB 963** is as follows:

HB 963, AN ACT relating to the Kentucky development finance authority.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.005 is amended to read as follows:

It *shall be* [~~is~~] the purpose of this chapter to *create a body corporate and politic to be known as the "Kentucky development finance authority" which shall exist and operate to help diversify the economy of this state, to develop and expand existing and alternative sources of energy and the conservation of energy, to assist business enterprise in obtaining additional sources of financing to aid this state in achieving the goal of long-term economic growth and full employment, to meet the growing competition for business enterprises, to preserve existing jobs, to create new jobs, to reduce the cost of business and production, to foster export activity, to foster economic development on surface mining land, and to alleviate and prevent unemployment through the retention, promotion, and development of agriculture and agricultural facilities, forestry and forestry facilities, commerce and commercial facilities, health care and health related facilities, export markets and export activities, industry and industrial buildings and facilities, tourism and tourist facilities, including the sites therefor, and agricultural, forestry, commercial, and industrial machinery and equipment, water and air pollution control equipment, and solid waste disposal facilities with respect thereto or for use by individuals for private sector employment* [~~promote the health, safety, morals, right to gainful employment, business and economic development opportunities and general welfare of the inhabitants of the Commonwealth by the creation of a body corporate and politic to be known as the "Kentucky development finance authority" which shall exist and operate for the public purpose of alleviating unemployment and furthering the utilization of natural and man-made resources by the promotion and development of business, industrial, manufacturing, tourist and agricultural enterprises in local communities of the Commonwealth~~]. Such purposes *shall* [~~are hereby declared to~~] be public purposes for which public money may be spent.

Section 2. KRS 154.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Authority" means the Kentucky development finance authority;

(2) *"Cost of a project" means the cost of the acquisition, construction, reconstruction, conversion, or leasing of any industrial, commercial, health care, agricultural, or forestry enterprise, or any part thereof, to carry out the purposes and objectives of this chapter, including but not limited to acquisition of land or interest in land, buildings, structures, or other planned or existing planned improvements to land including leasehold*

improvements, machinery, equipment, or furnishings; working capital; and administrative costs including, but not limited to, engineering, architectural, legal, and accounting fees which are necessary for the project;

(3) "Municipality" means a county, city, village, township, development organization, an institution of higher education, a community or junior college, a subdivision or instrumentality of any of the foregoing or any entity created by two (2) or more municipalities pursuant to the Interlocal Corporation Act, KRS 65.210 et seq.;

(4) "Person" means an individual, partnership, joint venture, profit or nonprofit corporation including a public or private college or university, or other association of persons organized for agricultural, commercial, health care, or industrial purposes; or a public utility or local industrial development corporation;

(5) "Private sector" means other source than the authority, a state or federal source, or an agency thereof;

(6) "Project" means an endeavor approved by the commerce cabinet and related to industrial, manufacturing, mining, mining reclamation for economic development, commercial, health care, or agricultural enterprise. Project shall include, but is not limited to, agricultural or forestry production, harvesting, storage, or processing facilities or equipment; equipment or facilities designed to produce energy from renewable resources; research parks; office facilities; engineering facilities; research and development laboratories; warehousing facilities; parts distribution facilities; depots or storage facilities; port facilities; railroad facilities, including trackage, right of way, and appurtenances; airports; water and air pollution control equipment or waste disposal facilities; tourist facilities; theme or recreational parks; health care and health related facilities; farms, ranches, forests and other agricultural or forestry commodity producers; agricultural harvesting, storage, transportation, or processing facilities or equipment; grain elevators; shipping heads and livestock pens; livestock; wharves and dock facilities; water, electricity, hydro electric, coal, petroleum or natural gas provision facilities; dams and irrigation facilities; sewage, liquid, and solid waste collection, disposal treatment, and drainage services and facilities. Project shall not include that portion of an endeavor devoted to the sale of goods at retail or that portion of an endeavor devoted to housing which does not consist of the manufacture of housing;

(7) "Reclamation development fund" means the fund administered by the Kentucky development finance authority to foster economic development on surface mining land;

(8) "Reclamation development project" means an economic undertaking which constitutes a project under subsection (6) of this section proposed for a surface mine which may seek reclamation development funds;

(9) "Reclamation development plan" means a plan submitted to the natural resources and environmental protection cabinet to show compliance with reclamation standards, and submitted to the Kentucky development finance authority to seek monies from the reclamation development fund; and

(10) "State" means the Commonwealth of Kentucky.

[~~"Borrower" means any person, partnership, corporation, cooperative, government or other legal entity;~~

~~(3) "Eligible project" means any facility or undertaking involving non-retail business or industry for the manufacturing, servicing, processing, storing, warehousing, distributing, preparing or assembling of any product, including but not limited to agricultural, mining, manufacturing or timber products; any facility or undertaking for any tourism related activity; or any facility or undertaking incidental to the development of sites, including but not limited to land costs and the costs of site improvements thereon, such as grading, streets, drainage, storm and sanitary sewers, and other facilities and structures incidental to the use of such site or sites for commercial use;~~

~~(4) "Assistance fee" means any payment made by the authority to the insurance corporation from one (1) of the mortgage insurance funds in the establishment of a project;~~

~~(5) "Contract" means the agreement between the authority and the insurance corporation under the terms of which the latter undertakes to insure the payment of mortgage loans;~~

~~(6) "Federal application" means an application to the government;~~

(7) "Government" means the United States of America or one (1) of its agencies which is authorized to make or to guarantee loans for an eligible project, including the small business administration, the farmers home administration, the economic development administration, the department of housing and urban development and the Appalachian regional commission;

(8) "Insurance corporation" means that nonprofit mortgage insurance corporation which may be established at the request of the authority as provided in KRS 154.040;

(9) "Loan application" means either an application for a direct loan to be made from the funds appropriated to the authority for the purpose, or an application for insurance of a loan made or to be made by another governmental lender or by a private person or corporation, whether on an interim or a permanent basis;

(10) "Mortgage insurance fund" means those funds granted to the insurance corporation to be held in a trust account as reserve for insurance commitments and from which valid insurance claims shall be paid;

(11) "Guarantee" means the insurance or guarantee, by the insurance corporation, of the repayment of a first mortgage loan or the repayment of the debt arising from the issuance of industrial development revenue bonds issued under KRS Chapter 103;

(12) "Trust account" means that account in one (1) or more trust companies in the name of the insurance corporation into which shall be paid all of the assistance fees and mortgage insurance funds paid to the insurance corporation under the contract with the authority;

(13) "Bond" means a revenue bond issued under the provisions of KRS 103.200 to 103.285, or issued under the provisions of this chapter; and

(14) "Umbrella bond" means a revenue bond issued under the provisions of this chapter, the proceeds of which may be used to make loans which are secured by guarantees of the government or the insurance corporation and which may be used to finance more than one (1) project.]

Section 3. KRS 154.020 is amended to read as follows:

(1) There shall be a development finance authority in the state government which shall be known as the Kentucky development finance authority, which shall be an independent agency of the Commonwealth reporting to the secretary of the commerce cabinet, but not attached to any administrative department.

(2) The authority shall consist of the secretary of the commerce cabinet, the secretary of the tourism cabinet, and the secretary of the finance and administration cabinet, and eleven (11) at large members appointed by the governor. *Effective July 15, 1988*, of the eleven (11) at large members, three (3) shall be representative of industrial or manufacturing interests, *two (2)* [~~three (3)~~] shall be representative of agricultural interests, *two (2)* [~~three (3)~~] shall be representative of tourism interests, *two (2) shall be representative of mining interests,* and two (2) shall represent the public at large. The chairman shall be the secretary of the commerce cabinet *and the vice-chairman shall be the secretary of the finance and administration cabinet* [~~who may appoint a deputy secretary of the commerce cabinet to serve as chairman. Each ex-officio member of the authority, as described in this section, may appoint in writing a substitute, who shall have full voting and other powers as a member of the authority or of the board, as the case may be. The writing by which the appointment is made shall be filed as a part of the records of the authority~~].

(3) [~~The terms of all appointive members of the former industrial development finance authority shall be deemed to have expired as of midnight on June 30, 1978. The terms of the new appointed members of the Kentucky development finance authority shall commence as of July 1, 1978.~~

~~(4)~~] Two (2) members initially appointed by the governor shall be appointed for a term of one (1) year, two (2) members for two (2), two (2) for three (3), and three (3) for four (4) years, respectively, from the date of their appointment and until their respective successors shall be duly appointed and qualified, the term of each appointed member to be designated by the governor at the time of his appointment. Their successors shall each be appointed for a term of four (4) years, except that any person appointed to fill a vacancy shall serve only for the unexpired term. Any appointed member of the authority shall be eligible for reappointment.

(4)[~~(5)~~] Members of the authority shall be entitled to compensation for their services as members in

the amount of one hundred dollars ($100) for each regular meeting of the authority, and shall be entitled to reimbursement for all necessary expenses incurred in connection with the performance of their duties as members.

(5) A majority of the members shall constitute quorum for the purpose of organizing the authority and conducting the business thereof, and all action may be taken by a vote of a majority of the members present, except where regulations of the authority prescribe a larger number.

(6) The authority may make reimbursement to any agency of the state for special expenses incurred in the provision of any services or the use of any facilities required by the authority.

Section 4. KRS 154.025 is amended to read as follows:

(1) [~~The authority shall make all policy as it pertains to loans, or other forms of financial assistance.~~

~~(2)~~] The authority shall make all policy as it pertains to personnel, consultants, payroll and other expenses. The authority may request that the secretary of the development cabinet assign housekeeping duties to one (1) of its departments ansecretary of the development cabinet shall honor such request. Housekeeping duties *shall* include, by way of example, those functions normally performed by a fiscal officer and personnel officer.

(2)[~~(3)~~] The authority may appoint an executive director and fix his salary, subject to the approval of the commissioner of personnel. The executive director shall perform, in the name of the authority, such functions and duties and may exercise such powers of the authority as the authority may delegate to him, including the provision of staff services for the authority and each committee thereof. The executive director shall be dismissed only with the approval of the authority.

Section 5. KRS 154.035 is amended to read as follows:

[~~(1)~~] In order to expedite the routine business of the authority, the chairman may appoint a three (3) member executive committee which may include the chairman. *The* [~~Such a~~] committee, if appointed, shall have the authority to approve or authorize the approval of substitution of collaterals, releases in the case of sales, deferment of principal payments for a period of not longer than six (6) months, subordination of a prior lien of the authority for an improvement to premises in which the lien exists not to exceed the cost of the improvement, and such other authority to determine an immediate course of action and to authorize or approve minor changes in loan conditions which are not inconsistent with the policies established by the authority.

[~~(2) The chairman may also, in order to expedite the review and processing of loan applications for industrial, agricultural and tourism projects, appoint three (3) member loan advisory committees in the areas of industrial development, agriculture, and tourism. Such committees, if appointed, shall review and evaluate all loan applications relevant to their respective mortgage insurance fund and make recommendations to the authority.~~]

SECTION 6. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

The authority shall have the powers necessary or convenient to carry out and effectuate the purposes, objectives, and provisions of this chapter, the purposes and objectives of the authority and the powers delegated by other laws or executive orders, including but not limited to the power to:

(1) Sue and be sued; to have a seal and alter the same at pleasure; to make, execute, and deliver contracts, conveyances, and other instruments necessary or convenient to the exercise of its powers; and to make and amend bylaws;

(2) Solicit and accept gifts, grants, loans, and other aids from any person or the federal, state, or a municipality or any agency of the federal, state, or a municipality, or to participate in any other way in any federal, state, or local government program;

(3) Make grants, loans, and investments; to guarantee and insure loans, leases, bonds, notes or other indebtedness, whether public or private; and to issue letters of credit;

(4) Construct, acquire by gift, purchase, installment purchase, or lease; and reconstruct, improve, repair, or equip a project or any part of a project;

(5) Borrow money and issue bonds and notes to finance part or all of the costs of a project, or of a loan pursuant to subsection (18) of this section for an export transaction, and to secure those bonds and notes by mortgage, assignment, or pledge of any of its money, revenues, income, and properties. The authority provided by this subdivision shall include, but is not limited to, issuing bonds and notes to acquire and install machinery, equipment, furnishings, and other personal property, notwithstanding that the authority does not own or propose to own or finance the building or land in or near to which the machinery, equipment, furnishings, and other personal property is or is to be located;

(6) Acquire or contract to acquire from any person, municipality, the federal or state government, or any agency of the foregoing, or otherwise, leaseholds, real or personal property or any interest in real or personal property; to own, hold, clear, improve, and rehabilitate and to sell, assign, exchange, transfer, convey, lease, mortgage, or otherwise dispose of or encumber leaseholds, real or personal property or any interest in real or personal property, as is convenient for the accomplishment of the purposes of this chapter and of the authority;

(7) Procure insurance against any loss in connection with the authority's property, assets, or activities;

(8) Invest any money of the authority, prior to the time it may be needed for the authority's programs, at the authority's discretion, in any obligations determined proper by the authority, and name and use depositories for its money;

(9) Engage personnel as necessary and engage the services of private consultants, managers, counsel, auditors, engineers, and scientists for rendering professional management and technical assistance and advice, payable out of any money of the authority legally available for this purpose;

(10) Charge, impose, and collect fees and charges in connection with any transaction and provide for reasonable penalties for delinquent payment of fees or charges;

(11) Indemnify and procure insurance indemnifying any members of the authority from personal loss or accountability from liability asserted by a person on the bonds or notes of the authority or any personal liability or accountability by reason of the issuance of the bonds, notes, insurance, or guarantees; by reason of acquisition, construction, ownership, or operation of a project; or by reason of any other action taken or the failure to act by the authority;

(12) Enter into a lease for the use or sale of a project. The lease may provide for options to purchase or renew;

(13) Mortgage or create security interests in a project or any part of a project, or in a lease or loan, or in the rents, revenues, or sums to be paid thereunder, in favor of the holders of the bonds or notes issued by the authority;

(14) Convey or release a project or any part of a project to a lessee, purchaser, or borrower under any agreement after provision has been made for the retirement in full of the bonds or notes issued for that project under terms and conditions provided in the agreement or as may be agreed with the holders of the bonds or notes, at any time the obligation of the lessee, purchaser, or borrower to make the payments prescribed shall remain fixed as provided in the agreement notwithstanding the conveyance or release, or as may otherwise be agreed with the holders of the bonds or notes;

(15) Make loans, participate in the making of loans, undertake commitments to make loans and mortgages, buy and sell loans and mortgages at public or private sale, rewrite loans and mortgages, discharge loans and mortgages, foreclosure on a mortgage, commence an action to protect or enforce a right conferred upon the authority by a law, mortgage, loan, contract, or other agreement, bid for and purchase property which was the subject of the mortgage at a foreclosure or other sale, acquire or take possession of the property and, in that event, complete, administer, pay the principal and interest on obligations incurred in connection with the property, and dispose of and otherwise deal with the property, in a manner as may be necessary or desirable to protect the interests of the authority;

(16) Create accounts and funds as required or permitted by law for the use and disbursement of assets

of the authority;

(17) Contract with others, public or private, for the provision of all or a portion of the services necessary for the management and operation of the authority;

(18) Make loans to a financial institution to facilitate financing of all or part of an export related transaction including, but not limited to, pre-export working capital financing and post-export receivable financing;

(19) Administer the reclamation development fund;

(20) Promulgate administrative regulations governing its proceedings;

(21) Do all other things necessary or convenient to achieve the objectives and purposes of the authority, this chapter, or other laws that relate to the purposes and responsibilities of the authority.

SECTION 7. A NEW SECTION OF KRS CHAPTER 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) The authority may borrow money and issue bonds or notes, subject to KRS 42.420, for the following purposes:

(a) To provide sufficient funds for achieving the authority's purposes and objectives, including but not limited to, amounts necessary to pay the costs of acquiring projects or any part thereof; to make loans for the cost of a project or any part thereof; to make loans pursuant to subsection (18) of Section 6 of this Act for an export related transaction; to make grants; to provide money to guarantee or insure loans, leases, bonds, notes, or other indebtedness; to make working capital loans; for all other expenditures of the authority incident to and necessary or convenient to carry out the authority's purposes, objectives, and powers; or for any combination of the foregoing;

(b) To refund bonds or notes of the authority issued under this chapter, by the issuance of new bonds, whether or not the bonds or notes to be refunded have matured or are subject to prior redemption or are to be paid, redeemed, or surrendered at the time of issuance of the refunding bonds or notes; and to issue bonds or notes partly to refund such bonds or notes and partly for any other purpose provided for by this section;

(c) To pay the costs of issuance of bonds or notes under this chapter; to pay interest on bonds or notes becoming payable prior to the receipt of the first revenues available for payment thereof as determined by the board; and to establish, in full or in part, a reserve for the payment of the principal and interest on the bonds or notes in such amount as shall be determined by the board.

(2) The bonds and notes, including, but not limited to, commercial paper, shall be authorized by resolution adopted by the authority, shall bear the date or dates, and shall mature at the time or times, not exceeding fifty (50) years from the date of issuance, as the resolution provides. The bonds and notes shall bear interest at the rate or rates set, reset, or calculated from time to time as provided in the resolution. The bonds and notes shall be in the denominations; be in the form, either coupon or registered; carry the registration privileges; be transferable; be executed in the manner; be payable in the medium of payment, at the place or places; and be subject to the terms of prior redemption at the option of the authority or the holders thereof as the resolution or resolutions provide. The bonds and notes of the authority may be sold at public or private, negotiated sale, at the price or prices the authority determines. Bonds and notes may be sold at a discount.

(3) Bonds or notes may be:

(a) Made the subject of a put or agreement to repurchase by the authority or others;

(b) Secured by a letter of credit or by any other collateral which the resolution may authorize;

(c) Resold by the authority, once acquired by the authority, pursuant to any put or repurchase agreement without the acquisition being considered the extinguishment of the bond or note.

(4) The authority may authorize its chairman or other officer to, by order:

(a) Sell and deliver, and receive payment for notes or bonds;

(b) Refund notes or bonds by the delivery of new notes or bonds, whether or not the notes or bonds to be refunded have matured, are subject to prior redemption, or are to be paid, redeemed, or surrendered at the time of the issuance of refunding bonds or notes;

(c) Deliver notes or bonds, partly to refund notes or bonds and partly for any other authorized purposes;

(d) Buy notes or bonds so issued at not more than the face value of the notes or bonds;

(e) Approve interest rates or methods for fixing interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights at the option of the authority or the holder, the place of delivery and payment, and other matters and procedures necessary to complete the transactions authorized.

(5) Except provided by the authority, every issue of its notes or bonds shall be general obligations of the authority payable out of revenues, properties, or money of the authority, subject only to agreements with the holders of particular notes or bonds pledging particular receipts, revenues, properties, or money as security therefor.

(6) The notes or bonds of the authority shall be and are hereby made negotiable instruments within the meaning of and for all purposes of the uniform commercial code, subject only to the provisions of the notes or bonds for registration.

(7) A resolution authorizing notes or bonds may contain any or all of the following convenants which shall be a part of the contract with the holders thereof:

(a) A pledge of all or a part of the fees, charges, and revenues made or received by the authority, or all or a part of the money received in payment of lease rentals, or loans and interest thereon, and other money received or to be received to secure the payment of the notes or bonds or an issue thereof, subject to agreements with bondholders or noteholders as may then exist;

(b) A pledge of all or a part of the assets of the authority, including leases, or notes or mortgages and obligations securing the same to secure the payment of the notes or bonds or of an issue of notes or bonds, subject to agreements with noteholders or bondholders as may then exist;

(c) A pledge of a loan, grant, or contribution from the federal, state, or municipality, or source in aid of a project as provided for in this chapter.

(d) A provision as to the use and disposition of the revenues and income from leases, or from loans, notes, and mortgages owned by the authority;

(e) A provision as to the establishment and setting aside of reserves or sinking funds and the regulation and disposition thereof subject to this chapter;

(f) Limitations on the purpose to which the proceeds of sale of the notes or bonds may be applied and limitations on pledging those proceeds to secure the payment of other bonds or notes;

(g) Authority for and limitations on the issuance of additional notes or bonds for the purposes provided for in the resolution and the terms upon which additional notes or bonds may be issued and secured;

(h) A provision for the procedure, if any, by which the terms of a contract with noteholders or bondholders may be amended or abrogated, the number of noteholders or bondholders who are required to consent thereto, and the manner in which the consent may be given;

(i) Vesting in a trustee, or a secured party, such property, income, revenues, receipts, rights, remedies, powers, and duties in trust or otherwise as the authority may determine necessary to appropriate to adequately secure and protect noteholders and bondholders or to limit or abrogate the rights of the noteholders and bondholders. A trust agreement may be executed by the authority with any trustee who may be located inside or outside

this state to accomplish any of the foregoing;

(j) Providing for the payment of maintenance and repair costs of a project;

(k) Establishing the insurance to be carried on a project and the use and disposition of insurance money and condemnation awards;

(l) Establishing the terms, conditions, and agreements upon which the holder of the bonds, or a portion thereof, shall be entitled to the appointment of a receiver by the circuit court. A receiver may enter and take possession of the project and maintain it or lease or sell it for cash or on an installment sales contract and prescribe rentals and payments therefor and collect, receive, and apply all income and revenues thereafter arising in the same manner and to the same extent as the authority; and

(m) Providing for any other matters, of like or different character, which in any way effect the security or protection of the notes or bonds.

(8) A pledge made by the authority shall be valid and binding from the time the pledge is made. The money or property pledged and received by the authority shall immediately be subject to the lien of the pledge without a physical delivery or further act. The lien of the pledge shall be valid and binding as against parties having claims of any kind in tort, contract, or otherwise against the authority and shall be valid and binding against the transfer of the money or property pledged, irrespective of whether the parties have notice. It shall not be necessary to record the resolution, the trust agreement, or any other instrument by which a pledge is created.

(9) Neither the members of the authority nor any person executing the notes or bonds shall be liable personally on the notes or bonds or be subject to personal liability or accountability by reason of the issuance thereof.

(10) The state shall not be liable for any financial obligations of the authority nor shall any such obligations or bonds be considered a debt of the state. The obligations shall contain on the face thereof a statement indicating this fact.

(11) The notes and bonds of the authority shall be securities in which the public officers and bodies of this state and municipalities and municipal subdivisions, insurance companies, associations, and other persons carrying on an insurance business, banks, trust companies, savings banks and savings associations, savings and loan associations, investment companies, and administrators, guardians, executors, trustees, and other fiduciaries, and all other persons who are authorized to invest in bonds or other obligations of the state, may properly and legally invest funds.

(12) The property of the authority and its income and operation shall be exempt from all taxation by this state or any of its political subdivisions. All bonds and notes of the authority, the interest thereon, and their transfer shall be exempt from all taxation by this state or any of its political subdivisions, except for estate, gift, and inheritance taxes, notwithstanding that interest on bonds or notes of the authority may be or become subject to federal income taxation as a result of legislative action by the federal government. The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority under this chapter, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority, issued pursuant to this chapter, the interest thereon, the transfer thereof, and all its fees, charges, gifts, grants, revenues, receipts, and other money received or to be received and pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state or local taxation provided by the laws of this state, except for estate, gift, and inheritance taxes.

SECTION 8. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Loan insurance shall be funded by an account, which shall be established and managed by the authority, to be known as the loan insurance account.

(2) The authority shall pay into the account any money appropriated or otherwise provided by this state for that purpose; any money which the authority receives as fees or premiums for its provision of loan, lease, or debenture insurance; loan, lease, or debenture guarantees; or letters of credit; and any other money made available to the authority for the purpose of loan insurance from any other source, public or private.

(3) Money in the loan insurance account may be transferred into any other account established by the authority, unless the authority is otherwise obligated to retain the money in the loan insurance account or if the money was appropriated by this state solely for that purpose.

SECTION 9. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) The authority may insure, guarantee, or issue letters of credit for all or a part of a loan or debenture of others, public or private.

(2) The authority may insure, guarantee, or issue letters of credit for all or a part of a lease entered into by others, public or private.

(3) The authority may procure insurance, a guarantee, or a letter of credit from any source for all or a part of a loan, debenture. or lease of others, public or private. The authority may procure insurance, a guarantee, or a letter of credit for either a single loan, debenture, or lease or for any combination of loans, debentures, or leases.

(4) The authority may insure, guarantee, or issue letters of credit for all or a part of a revenue bond issued by the authority, another state agency or authority, or another entity or authority authorized by law to issue revenue bonds.

(5) The authority may procure insurance, a guarantee, or a letter of credit for all or a part of a revenue bond issue of the authority, another state agency or authority, or another entity or authority authorized by law to issue revenue bonds. The authority may procure insurance, a guarantee, or a letter of credit for either all or part of a single revenue bond issue or for all or a part of any combination of revenue bond issues.

SECTION 10. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

To provide loan insurance pursuant to Sections 8 and 9 of this Act, the authority may enter into a contract of insurance. The Kentucky insurance code shall not apply to the insurance contract, and the authority shall not be considered an insurer subject to the Kentucky insurance code by virtue of entering into the contract.

SECTION 11. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Insurance, guarantees, or letters of credit provided or procured pursuant to Sections 8 and 9 of this Act shall be provided or procured only for projects within this state which are consistent with the purposes and objectives of the authority and this chapter.

(2) The authority shall give paramount priority in providing or procuring insurance, guarantees, and letters of credit to projects which have the greatest potential for creating new jobs or retaining current jobs within this state.

SECTION 12. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Insurance, guarantees, or letters of credit shall not be provided or procured unless the authority shall be legally assured that the loans, debentures, or leases insured, or guaranteed, or for which letters of credit are issued, will be used to assist projects which also have significant private sector financial support.

(2) Insurance, guarantees, or letters of credit may be provided or procured on the terms and conditions the authority, in its sole discretion, shall determine to be reasonable, appropriate, and consistent with the purposes and objectives of the authority and this chapter.

(3) The authority may charge the lender or the borrower, or both, a fee or premium for loan, debenture, or lease insurance, guarantee, or letter of credit. Guidelines for premiums or fees charged by the authority for loan, debenture, or lease insuranced guarantees, or letters of credit shall be established by the authority.

SECTION 13. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

The authority may enter into agreements with lenders for participation in loan insurance. The agreements may include, but need not be limited to:

(1) Authorization for the lender to determine, collect, and transmit to the authority a fee or premium charge within a specified range established consistent with the purposes and objectives of the authority;

(2) Specification of whether the premium charge shall be paid by the lender, the borrower, the authority, or by a combination thereof in specified proportions;

(3) The procedure by which a lender may make a claim upon the authority upon default by the borrower and the conditions under which a claim may be made;

(4) The maximum amount of claims a lender may make upon the authority, which amount may be equal to, greater than, or less than the proportion of the total premiums collected by the authority which is accounted for by premiums collected by the lender.

SECTION 14. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

The authority may establish a special fund or funds solely to secure some or all of its obligations within the loan insurance account into which fees or premiums collected by the authority for loan, debenture, or lease insurance, guarantees, or letters of credit may be deposited.

SECTION 15. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Assistance for reclamation development projects shall be provided by a fund, which shall be established and managed by the authority, to be known as the reclamation development fund.

(2) The authority shall pay into the fund any money appropriated or otherwise provided by the state for that purpose and any other money available to the authority for assistance for reclamation development projects, including funds from public or private sources.

SECTION 16. A NEW SECTION OF KRS 154.001 TO 154.170 IS CREATED TO READ AS FOLLOWS:

(1) Moneys in the reclamation development fund:

(a) Shall be used to foster reclamation development projects described in a reclamation development plan submitted to the authority as part of the application for reclamation development fund moneys, except that no money in the reclamation development fund shall be used for any reclamation development project until the reclamation development plan with respect to that project has been approved by the natural resources and environmental protection cabinet pursuant to KRS Chapter 350; and

(b) May be made available to any person or entity, public or private, organized for profit or not for profit; and

(c) Shall be made on the terms and conditions the authority, in its sole discretion, determines to be reasonable, appropriate, and consistent with the purposes and objectives of the authority and this chapter, which may include, but not be limited to, the pledging of adequate security.

Section 17. The following KRS sections are repealed:

154.023 Authority subject to supervision of department of financial institutions.

154.030 Quorum and majorities — Reimbursement of other agencies.

154.040 Powers of authority.

154.050 Examination of projects.

154.060 Administrative regulations.

154.070 Application for assistance.

154.130 Terms of loans.

Section 18. KRS 350.010 is amended to read as follows:

As used in this chapter unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. Such activities include excavation for the purpose of obtaining coal including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching or other chemical or physical processing, and cleaning, concentrating or other processing or preparation, and the loading of coal at or near the mine site. Such activities shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him: the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which such activities occur or where such activities disturb the natural land surface. Such areas shall also include any adjacent land the use of which is incidental to any such activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of such activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to such activities. This definition includes the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use from land owned or leased by him; the extraction of coal as an incidental part of federal, state or local government financed highway or other construction under regulations established by the cabinet; the extraction of, or intent to extract, two hundred fifty (250) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16 2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of such operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means such material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership or corporation engaged in surface coal mining and reclamation operations;

(9) "Person" means any persons, partnership, corporation, association, society, joint stock company, firm, company or other business organization;

(10) "Cabinet" means the natural resources and environmental protection cabinet;

(11) "Secretary" means the secretary of the natural resources and environmental protection cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf or terrace formed in the contour method of strip mining;

(15) "Fill bench" means that portion of the bench which is formed by depositing overburden beyond the cut section;

(16) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(17) "Certification" by a qualified registered professional engineer as required by this chapter and regulations promulgated hereunder means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employes or subordinates. Such certification shall not be construed to constitute a warranty or guarantee.

(18) "Reclamation development fund" means the fund administered by the Kentucky development finance authority to foster economic development on surface mining land.

(19) "Reclamation development project" means an economic undertaking which constitutes a project under KRS 154.010(6), proposed for a surface mine which may seek reclamation development funds.

(20) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky development finance authority to seek monies from the reclamation development fund.

Section 19. KRS 350.090 is amended to read as follows:

(1) Under the provisions of this chapter and regulations adopted by the cabinet, an operator shall prepare and carry out a method of operation, plan of grading and backfilling and a reclamation plan for the area of land affected by his operation. In developing a method of operation, and the plans of backfilling, grading and reclamation, all measures shall be taken to eliminate damages to members of the public, their real and personal property, public roads, streams and all other public property from soil erosion, rolling stones and overburden, water pollution and hazards dangerous to life and property. The permit application containing the required plans and other information as required shall be submitted to the cabinet and, except for applications or renewals submitted in compliance with KRS 350.060(2), the cabinet shall notify the applicant by certified

mail, return receipt requested within sixty-five (65) cumulative working days after receipt of a complete application if it is or is not acceptable. Provided, however, that in the event that applicable notice, hearing and conference procedures prevent a decision from being issued within the sixty-five (65) cumulative working day period, the cabinet shall have additional reasonable time to issue its decision, but not to exceed twenty (20) days from the completion of the notice, hearing and conference procedures. If the plan is not acceptable, the cabinet shall set forth the reasons for which the application or plans are not acceptable and it may propose modifications, delete areas or reject the entire application. Should the applicant disagree with the decision of the cabinet, he may, by written notice, request a hearing conducted by the cabinet in the manner provided by KRS 224.083. The cabinet shall notify the applicant by certified mail, return receipt requested within twenty (20) days after the hearing of its decision. Any person aggrieved by a final order of the cabinet may appeal through the courts as set forth in KRS 224.085.

(2) If the operator desires to seek funds from the reclamation development fund to develop an economic development unit during reclamation, the operator shall submit, along with the reclamation plan, a reclamation development plan outlining the reclamation development project and showing how it will conform with the reclamation standards of this chapter.

(3) No operator shall throw, dump, pile or permit the dumping, piling or throwing or otherwise placing any overburden, stones, rocks, coal, particles of coal, earth, soil, dirt, debris, trees, wood, logs, or any other materials or substances of any kind or nature beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060 or place such materials herein described in such a way that normal erosion or slides brought about by natural physical causes will permit such materials to go beyond or outside of the area of land which is under permit and for which bond has been posted under KRS 350.060.

Section 20. To carry out the purposes of this Act, there is appropriated to the Kentucky development finance authority out of the General Fund in the State Treasury, but solely from funds deposited into the General Fund from revenues collected under KRS 143.020, the sum of five hundred thousand dollars ($500,000) for fiscal year 1988-89 and five hundred thousand dollars ($500,000) for fiscal year 1989-90. The appropriations shall not lapse.

SECTION 21. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) On or before October 1, 1988, and on or before the first day of every third month thereafter, the authority shall provide a written project status report to the Legislative Research Commission, and the authority shall be compelled to send a representative to testify on the project status report and the authority shall provide additional information on any projects upon request by the Legislative Research Commission. The written project status report shall include, but is not limited to:

(a) The current status of each project under consideration by the authority, the proposed cost of a project, as defined by this Act, for each project under consideration, including any proposed financial obligations of the authority, the number of jobs to be created or retained by each project under consideration, and a description of the applicants with respect to each project under consideration; and

(b) The current status of each project, as defined by this Act, which is in progress, along with an updated cost of a project, as defined by this Act, for each project in progress, including any financial obligations of the authority and a description of the principals with respect to each project in progress.

(2) On or before the first day of each fiscal year, the authority shall submit an overview report, on the success or failure of each completed project, in order to determine the effectiveness of the Kentucky development finance authority.

(3) If the authority fails to deliver the written project status report of the overview report to the Legislative Research Commission within fifteen (15) days after the required due date, the salary of the executive director of the Kentucky development finance authority shall be withheld until such report is received.

The Committee Title Amendment to **HB 963** is as follows:

Amend printed copy of **HB 963** by changing, on page 1, the Title to read as follows:

"AN ACT relating to the Kentucky development finance authority and making an appropriation therefor.

HB 990, AN ACT relating to the legislative program review and investigations committee.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

As used in KRS 6.905 to 6.935:

(1) Committee" means the legislative program review and investigations committee.

(2) "Investigation" means any inquiry into specified acts or allegations of impropriety, malfeasance or nonfeasance in the obligation, expenditure, receipt or use of public funds or performance of public duty of a state appointed or elected agency official, employe or contractor.

(3) "Review" means any noninvestigative study of the operation, accomplishments, management or activities of an agency or program and includes such procedures as fiscal audit, program evaluation, program audit, management audit, performance evaluation or other related terms.

(4) "Study" means any investigation or review initiated or undertaken by the committee.

(5) "State agency" means all departments, agencies, boards, commissions, institutions and instrumentalities of the executive branch including those of constitutional and elected officials and any affiliated organizations or independent, quasi-state government entity created by an action of the general assembly, a state agency or employe acting in official capacity, or any program or project receiving funds or resources from a state agency or supplying services on a contract basis.

The Committee Substitute to **HB 990** is as follows:

HB 990, AN ACT relating to the legislative program review and investigations committee.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 6 IS CREATED TO READ AS FOLLOWS:

As used in KRS 6.905 to 6.935:

(1) Committee" means the legislative program review and investigations committee.

(2) "Investigation" means any inquiry into specified acts or allegations of impropriety, malfeasance, nonfeasance, misfeasance or criminal activity in the obligation, expenditure, receipt or use of public funds or performance of public duty of a state appointed or elected agency official, employe or contractor.

(3) "Review" means any noninvestigative study of the operation, accomplishments, management or activities of an agency or program and includes such procedures as fiscal audit, program evaluation, program audit, management audit, performance evaluation or other related terms.

(4) "Study" means any investigation or review initiated or undertaken by the committee.

(5) "State agency" means all departments, agencies, boards, commissions, institutions and instrumentalities of the executive (including elected and constitutional offices) and judicial branches; any affiliated organizations, multi-jurisdictional organizations or independent, profit or nonprofit entity related to these by an action of the general assembly, an agency of state government or employe acting in official capacity; or, that portion of any program, project or firm receiving funds from or providing services or resources to or for any of the above.

(6) "Government agency" means all entities defined as state agencies in subsection (5) of this section; all local government elected and constitutional offices; all county, city and urban-county governments, multi-jurisdictional organizations of such bodies, school districts, special districts and authorities; any affiliated organizations or independent, profit or nonprofit entity related to these; or that portion of any program, project or firm receiving funds from or providing services or resources to or for any of the above.

Section 2. KRS 6.905 is amended to read as follows:

(1) There is hereby created a legislative program review and investigations committee which shall be a permanent standing committee of the general assembly, consisting of eight (8) members of the senate, six (6) of whom shall be appointed by the president pro tempore and two (2) of whom shall be appointed by the minority leader of the senate, and eight (8) members of the house of representatives, six (6) of whom shall be appointed by the speaker and two (2) of whom shall be appointed by the minority leader of the house of representatives. At least one (1) appointee by each appointive authority shall be a member of the senate or house standing committee on appropriations and revenue. The appointments shall be made within seven (7) legislative days of the beginning of each regular or organizational session of the general assembly, and the members so appointed shall serve for a term of two (2) years coextensive with the biennium in which the appointment is made. Vacancies shall be filled in the same manner as the original appointments, and for the balance of the term of the vacated member.

(2) The committee shall select a chairman and other officers as it may deem necessary from among its membership. The chairman shall serve a term of *two (2) years* [~~one (1) year~~] in the biennium in which the committee appointments are made. [~~Eligibility for the position of committee chairman shall alternate annually between appointees that are members of the senate and appointees that are members of the house of representatives.~~] A majority of the membership shall constitute a quorum and all actions *adopting operating rules, closing investigatory hearings,* authorizing *a study, modifying the focus of a study,* [~~an investigation~~] dropping a *study,* [~~an investigation~~] or *amending or* adopting a final report *prepared for the committee* on any subject under *study* [~~investigation~~] shall require the affirmative vote of a majority of the full committee membership. All other actions of the committee may be undertaken by an affirmative vote of a majority of a quorum of the committee.

(3) When *a study* [~~an evaluation or investigation~~] is instituted [~~upon the request of a legislative committee~~], the chairman and a ranking minority member *or their designees* of *the interim legislative committees of jurisdiction as determined by the legislative research commission* [~~that committee~~] shall serve as non-voting ex officio members of the legislative program review and investigations committee during the course of *any actions by the committee related to the instituted study* [~~such evaluation or investigation~~]. If the legislative committee *determined to have jurisdiction* [~~that requested the evaluation or investigation~~] is a standing committee of one (1) of the houses of the general assembly, the minority leader of that house shall appoint the ranking minority member. If the legislative committee *determined to have jurisdiction* [~~that requested the evaluation or investigation~~] is an interim joint committee of the legislative research commission, the ranking minority member shall be:

(a) A minority party member of the house of representatives appointed by the house minority leader, if the chairman of the interim joint committee is a member of the senate; or

(b) A minority party member of the senate appointed by the senate minority leader, if the chairman of the interim joint committee is a member of the house of representatives.

(4) Each regular and ex-officio member of the legislative program review and investigations committee shall receive the same travel allowances and compensation for attending interim meetings of the committee as are received by members of subcommittees of the legislative research commission under KRS 7.090(2).

Section 3. KRS 6.910 is amended to read as follows:

The legislative program review and investigations committee shall have the power and duty to:

(1) *Study the* [~~Make performance reviews of~~] operations of *government* [~~state~~] agencies *and programs* to ascertain that sums appropriated have been, or are being, expended for the purposes for which such appropriations were made and to evaluate the effectiveness *and efficiency* of programs *and agencies* in accomplishing legislative intent;

(2) *Determine if there is program duplication or if programs or agencies can accomplish their missions and goals more economically;*

(3) Study on a continuing basis the *organization,* operations, practices and duties of state agencies, as they relate to *effectiveness,* efficiency *and accomplishment of legislative directives with regards to service delivery, program accomplishment and program impact and the* [~~in the~~] utilization of *funds,* space, personnel, equipment and facilities;

(4) With the assistance of the appropriate state agencies, develop ready access to the state's personnel, organization, budgetary allotment and expenditure reporting and tracking systems and other agency data systems as determined by the committee subject to the approval of the legislative research commission which shall coordinate all such needs for overall legislative purposes;

(5)[~~(3)~~] Make such special studies and reports of the operations, *management, fiscal and personnel practices,* [~~and~~] functions *and accomplishments* of *government* [~~state~~] agencies as it deems appropriate and as may be requested by the general assembly *or directed by the legislative research commission;*

(6)[~~(4)~~] Make such reports on its findings and recommendations at such time and in such manner as the committee deems proper, submitting such reports to the agencies concerned, to the governor and to the general assembly. Such reports shall relate to the following matters:

(a) Whether any state agency is carrying out only those *missions, goals, objectives,* activities or programs authorized by the general assembly; or

(b) Whether the programs and activities of a *government* [~~state~~] agency, or a particular program or activity is being operated efficiently, effectively and in accordance with legislative intent; or

(c) Whether there is a need for change in any authorized activity or program of a *government* [~~state~~] agency *to improve the delivery of services or to reduce the costs of services;* or

(d) Whether any reorganization of a state agency, or group of state agencies, is needed or justified to accomplish the results of programs or activities authorized by the general assembly *or to reduce duplication or conflict of activities between agencies;* or

(e) Any combination of the purposes specified in this or any other section of KRS 6.905 to 6.935.

(7)[~~(5)~~] Consider and act on requests for *studies* [~~program reviews~~] submitted by legislators, legislative committees, elected officials of state government, state cabinet secretaries, and department and agency heads. Requests shall be submitted in writing and shall state reasons to support the request. The decision of the committee to grant or deny such a request *and the areas to be studied* shall be final;

(8)[~~(6)~~] Conduct *studies* [~~investigations~~] directed by joint resolution of the general assembly;

(9)[~~(7)~~] *Conduct studies:* [~~When the general assembly is not in session, conduct investigations~~]

(a) Initiated by a majority vote of the program review and investigations committee; or

(b) *Directed* [~~Requested~~] by the legislative research commission or *requested by* an interim joint committee thereof. In the event two (2) or more *studies* [~~investigations~~] are requested *by interim joint committees,* the priority among them shall be determined by the legislative program review and investigations committee.

(10)[~~(8)~~] The legislative program review and investigations committee shall notify the legislative research commission periodically of the committee's activities, and at any time a new *study* [~~investigation~~] is to commence. Any *study* [~~investigation~~] conducted by the legislative program review and investigations committee shall be deemed within its lawful duties and jurisdiction unless notified to the contrary by the legislative research commission.

Section 4. KRS 6.915 is amended to read as follows:

(1) All *government* agencies [~~of the state~~], their staff and employes shall provide the legislative program review and investigations committee *or the staff of the legislative research commission assigned to the committee* with necessary information for the performance of its duties, and shall afford the committee and its staff ample opportunity to*:* observe agency operations*; interview staff and clients; and review any public or nonpublic agency documents, records, files, memoranda and reports.*

(2) All government agencies shall provide information and access to operations, personnel and records in the manner and time requested by the committee or the staff of the legislative research commission assigned to the committee without charge to the committee or the legislative research commission.

(3) All information gathered by or on behalf of the committee related to a study, unless otherwise designated through the operating rules of the committee, shall be regarded as confidential working papers exempt from public release or inspection except that the legislative research commission shall have access.

Section 5. KRS 6.925 is amended to read as follows:

While engaged in an investigation: [~~When making a performance evaluation or an expenditure review~~]

(1) The legislative program review and investigations committee may require that testimony be given under oath, which may be administered by the chairman or by any person authorized by law to administer oaths. The committee may require that such testimony or any proceedings of the committee be recorded by an official court reporter or other competent person, under oath. The transcript, when written, certified and approved by the recorder and transcriber as being the direct transcript of the testimony, or proceedings, shall be prima facie a correct statement of said testimony or proceedings provided that the recorder and transcriber's signature to such certificate is duly acknowledged by him before a notary public or a judicial official of the Commonwealth.

(2) The committee, while engaged in an investigation related to allegations of impropriety, malfeasance, nonfeasance, misfeasance or criminal activity may restrict access to the hearings. It may also restrict access, during and subsequent to the hearings, to any interviews, testimony or evidence provided by witnesses or staff related to such an investigation.

Section 6. KRS 6.930 is amended to read as follows:

(1) In any instance in which a *study* [~~program review~~] conducted by or for the legislative program review and investigations committee cites inadequate operating or administrative systems controls or procedures, inaccuracies, waste, extravagance, unauthorized or unintended activities or programs, or other deficiencies, the committee shall report such deficiencies and its recommendations for their correction to the head of the *government* [~~state~~] agency or program to which the report pertains.

(2) *The head of the government agency or program shall be given ten (10) working days in which to respond in writing to a report and recommendations prepared for or by the committee. The appropriate agency head and, if requested, the cabinet secretary or other persons shall appear before the committee in person at a time and place designated by the Committee to address the report and recommendations.*

(3)[~~(2)~~] The head of the *government* [~~state~~] agency or program to which the report pertains shall give affirmative consideration to the report by:

(a) Adopting the committee's recommendations and reporting his action to the committee; or

(b) Otherwise correcting the deficiency and reporting his action, and the reasons for not adopting the committee's recommendations, to the committee.

(4)[~~(3)~~] If no corrective action is taken by the head of a *government* [~~state~~] agency or program in response to a committee report *and recommendations* [~~under subsections (1) and (2) of this section~~], or if the committee deems the corrective action taken to be unsuitable, the committee shall report the matter to the *legislative research commission and the* general assembly, together with its recommendations.

(5)[~~(4)~~] The committee shall report the results of each of its *studies*, [~~investigations~~] including the committee's

recommendations for any further action, to the *legislative research commission, the* general assembly *and, if a state agency, the governor.*

Section 7. KRS 6.935 is amended to read as follows:

The attorney general, or an assistant attorney general designated by him, and the auditor of public accounts shall assist, *at no cost,* the legislative program review and investigations committee in whatever manner the committee deems that such officers can be helpful.[~~Staffing and support services shall be provided the legislative program review and investigations committee pursuant to KRS 7.090.~~]

Section 8. KRS 198A.090 is amended to read as follows:

(1) The corporation *may* [~~is hereby authorized to~~] provide for the issuance, at one (1) time or from time to time, of bonds of the corporation in an amount not to exceed seven hundred million dollars ($700,000,000) to carry out and effectuate its corporate purposes and powers except as provided for in subsection (2) of this section.

(2) The corporation *may* [~~is hereby authorized to~~] provide for the issuance of an additional four hundred twenty-five million dollars ($425,000,000) in bonds of the corporation [~~with the consent of a majority of the legislative program review and investigations committee of the Kentucky general assembly established as set forth in KRS 6.905. The legislative program review and investigations committee shall oversee in its entirety the bonding program herein set forth~~].

(3) In anticipation of the issuance of such bonds the corporation also is hereby authorized to provide for the issuance, at one (1) time or from time to time, of bond anticipation notes. The principal of and the interest on such bonds or notes shall be payable solely from the funds herein provided for such payment. Any such notes may be made payable from the proceeds of bonds or renewal notes or, in the event bond or renewal note proceeds are not available, such notes may be paid from any available revenues or assets of the corporation.

(4) The bonds or notes of each issue shall be dated and may be made redeemable before maturity at the option of the corporation at such price or prices and under such terms and conditions as may be determined by the corporation. Any such bonds or notes shall bear interest at such rate or rates as may be determined by the corporation. Notes shall mature at such time or times not exceeding ten (10) years from their date or dates and bonds shall mature at such time or times not exceeding forty (40) years from their date or dates, as may be determined by the corporation. The corporation shall determine the form and manner of execution of the bonds or notes, including any interest coupons to be attached thereto, and shall fix the denomination or denominations and the place or places of payment of principal and interest, which may be any bank or trust company within or without the Commonwealth. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or notes or coupons attached thereto shall cease to be such officer before the delivery thereof, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. The corporation may also provide for the authentication of the bonds or notes by a trustee or fiscal agent. The bonds or notes may be issued in coupon or in registered form, or both, as the corporation may determine, and provision may be made for the registration of any coupon bonds or notes as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds or notes of any bonds or notes registered as to both principal and interest, and for the interchange of registered and coupon bonds or notes. Upon the approval of a resolution of the corporation, authorizing the sale of its bonds or notes, such bonds or notes may be sold in such manner, either at public or private sale, and for such price as said corporation shall determine to be for the best interest of the corporation and best effectuate the purposes of this chapter provided that such sale shall be approved by the corporation.

(5) The proceeds of any bonds or notes shall be used solely for the purposes for which issued and shall be disbursed in such manner and under such restrictions if any, as the corporation may provide in the resolution authorizing the issuance of such bonds or notes or in the trust agreement hereinafter mentioned securing the same.

(6) Prior to the preparation of definitive bonds, the corporation may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The corporation may also provide for the replacement of any bonds or notes which shall become mutilated or shall be destroyed or lost.

(7) [~~Bonds or notes may be issued under the provisions of this chapter only upon obtaining the approval of the legislative program review and investigations committee of the Kentucky general assembly.~~

~~(8)~~] The department of finance shall provide to the corporation such fiscal consultant services regarding revenue bond management as may be necessary.

HB 1013, AN ACT relating to the professional fire fighters foundation program and the law enforcement foundation program funds, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to regulations which shall be promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the revenue cabinet, on such forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any such moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. The funds derived from such premium surcharge, except as provided in *subsections* [~~subsection~~] (2) *and (4)* of this section, shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in KRS 17.250; provided however, that insurance premium surcharge funds collected from the policyholders of any mutual company, cooperative or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1986, shall continue to be paid into the professional fire fighters foundation program fund and the law enforcement foundation program fund as prescribed herein.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the state treasury as set forth in subsection (1) of this section shall be paid by the state treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300.

(4) Upon proper certification of the department of insurance, a portion of the insurance premium surcharge funds deposited in the state treasury pursuant to subsection (1) of this section shall be paid to the department of insurance as reimbursement for expenses incurred pursuant to Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS 304.2-010 TO 304.2-400 IS CREATED TO READ AS FOLLOWS:

(1) The department may audit the books, records and accounts of any insurer, or its agent, who is required by KRS 136.392 to charge and to collect insurance premium surcharges from its policyholders.

(2) The department may employ and contract with any independent certified public accountant to perform any audit directed by the department pursuant to subsection (1) of this section.

(3) Expenses incurred by the department pursuant to this section shall be reimbursed in full from insurance premium surcharge funds as provided in KRS 136.392(4).

SECTION 3. A NEW SECTION OF KRS 15.410 TO 15.510 IS CREATED TO READ AS FOLLOWS:

Each fiscal year of the biennium, one hundred thousand dollars ($100,000) of law enforcement foundation program funds shall be allocated to and appropriated for the sole purpose of funding sheriff personnel training at the Kentucky sheriffs' academy of Western Kentucky University. Any expenditure of these funds shall be properly accounted for and reported in a manner prescribed by the secretary. If any money in the sheriffs' academy fund remains uncommitted, unobligated or unexpended at the close of the first fiscal year of the biennium, the moneys shall be carried forward to the second fiscal year, and shall be reallocated to and reappropriated for the use of the sheriffs' academy fund, in addition to the second fiscal year's allocation of one hundred thousand dollars ($100,000).

The Committee Substitute to **HB 1013** is as follows:

HB 1013, AN ACT relating to the professional fire fighters foundation program and the law enforcement foundation program funds, and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 136.392 is amended to read as follows:

(1) Every domestic, foreign or alien insurer, other than life and health insurers, which is either subject to or exempted from Kentucky premium taxes as levied pursuant to the provisions of either KRS 136.340, 136.350, 136.370 or 136.390, shall charge and collect a surcharge of one dollar and fifty cents ($1.50) upon each one hundred dollars ($100) of premium, assessments, or other charges, except for those municipal premium taxes, made by it for insurance coverage provided to its policyholders, on risk located in this state, whether such charges are designated as premiums, assessments or otherwise. The premium surcharge shall be collected by the insurer from its policyholders at the same time and in the same manner that its premium or other charge for the insurance coverage is collected. The premium surcharge shall be disclosed to policyholders pursuant to regulations which shall be promulgated by the commissioner of insurance. However, no insurer or its agent shall be entitled to any portion of any premium surcharge as a fee or commission for its collection. On or before the twentieth (20th) day of each month, each insurer shall report and remit to the revenue cabinet, on such forms as it may require, all premium surcharge moneys collected by it during its preceding monthly accounting period less any such moneys returned to policyholders as applicable to the unearned portion of the premium on policies terminated by either the insured or the insurer. The funds derived from such premium surcharge, except as provided in *subsections* [~~subsection~~] (2) *and (4)* of this section, shall be deposited in the state treasury, and shall constitute a fund allocated for the uses and purposes of the professional fire fighters foundation program fund (KRS 95A.220) and the law enforcement foundation program fund (KRS 15.430).

(2) Insurance premium surcharge funds collected from the policyholders of any domestic mutual company, cooperative or assessment fire insurance company shall be deposited in the state treasury, and shall be paid monthly by the state treasurer into the volunteer fire department aid fund as provided in KRS 17.250; provided however, that insurance premium surcharge funds collected from the policyholders of any mutual company, cooperative or assessment fire insurance company which transfers its corporate domicile to this state from another state after July 15, 1986, shall continue to be paid into the professional fire fighters foundation program fund and the law enforcement foundation program fund as prescribed herein.

(3) Within five (5) days after the end of each month, all insurance premium surcharge proceeds deposited in the state treasury as set forth in subsection (1) of this section shall be paid by the state treasurer into the professional fire fighters foundation program fund trust and agency account and the law enforcement foundation program fund trust and agency account. The amount paid into each account shall be proportionate to each fund's respective share of the total deposits, pursuant to KRS 42.190. Moneys deposited to the law enforcement foundation program fund trust and agency account shall not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 15.410 to 15.500. Money deposited to the professional fire fighters foundation program fund trust and agency account shall

not be disbursed, expended, encumbered or transferred by any state official for uses and purposes other than those prescribed by KRS 95A.200 to 95A.300.

(4) Upon proper certification of the department of insurance, a portion of the insurance premium surcharge funds deposited in the state treasury pursuant to subsection (1) of this section shall be paid to the department of insurance as reimbursement for expenses incurred pursuant to Section 2 of this Act.

SECTION 2. A NEW SECTION OF KRS 304.2-010 TO 304.2-400 IS CREATED TO READ AS FOLLOWS:

(1) The department may audit the books, records and accounts of any insurer, or its agent, who is required by KRS 136.392 to charge and to collect insurance premium surcharges from its policyholders.

(2) The department may employ and contract with any independent certified public accountant to perform any audit directed by the department pursuant to subsection (1) of this section.

(3) Expenses incurred by the department pursuant to this section shall be reimbursed in full from insurance premium surcharge funds as provided in KRS 136.392(4).

Section 3. KRS 15.460 is amended to read as follows:

(1) Beginning July *15, 1988, and each fiscal year thereafter* [~~1, 1982~~], an eligible local unit of government shall be entitled to receive annually a supplement of *three thousand dollars ($3,000)* [~~two thousand five hundred dollars ($2,500)~~] for each qualified police officer it employs.

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

Section 4. KRS 95A.250 is amended to read as follows:

(1) Beginning July *15, 1988, and each fiscal year thereafter* [~~1, 1982~~], an eligible local government shall be entitled to receive annually a supplement of *three thousand dollars ($3,000)* [~~two thousand five hundred dollars ($2,500)~~] for each qualified professional fire fighter it employs.

(2) Each qualified professional fire fighter, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by that local government the supplement which his qualifications brought to the local government. The supplement paid each qualified fire fighter shall be in addition to his regular salary.

Section 5. KRS 17.250 is amended to read as follows:

(1) There is created and established within the department of housing, buildings and construction a volunteer fire department aid fund consisting of insurance premium surcharge proceeds as provided in subsection (2) of KRS 136.392. All moneys remaining in this fund on July 1, 1982, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, and shall not lapse, and shall be continuously appropriated for the purposes specified herein and in KRS 61.316.

(2) Except as provided in *this subsection and subsections* [~~subsection~~] (3), *(7) and (8)* of this section and KRS 61.316, the state fire marshal shall allot *from the volunteer fire department aid fund, beginning July 15, 1988, and each fiscal year thereafter, to each eligible volunteer fire department in this state an annual supplement of three thousand dollars ($3,000). For the purposes of this section volunteer fire department means* [~~on an annual basis an equal share of the funds accruing to and appropriated for volunteer fire department aid to~~] volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and all other organized volunteer fire departments recognized by the department of housing, buildings and construction as fire departments operated and maintained on a nonprofit basis in the interest of the health, safety, prosperity and security of the inhabitants of the Commonwealth. *The state fire marshal may* [~~He shall~~] prescribe regulations and standards *pertaining thereto* [~~for determining the amounts to be granted~~]. Such standards shall be based on

the number of both paid fire fighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. No allotment shall exceed the total value of the funds, equipment, lands and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and workers' compensation insurance[~~, and the remaining funds shall be distributed as set forth in this section~~].

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the volunteer fire department aid fund that shall be allocated each fiscal year of the biennium to the fire fighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for fire fighters. If any moneys in the training center fund remain uncommitted, unobligated or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the commission on fire protection personnel standards and education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding of fire fighters training centers shall be submitted to the commission on fire protection personnel standards and education for their recommendation, approval, disapproval or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the commission on fire protection personnel standards and education.

(6) Upon the written request of any department, the commission on fire protection personnel standards and education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the volunteer fire department aid fund during any fiscal year.

(8) The state fire marshal shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the state fire marshal for reimbursement in a manner approved by the state fire marshal and the loss and the circumstances thereof have been verified by the state fire marshal;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The state fire marshal has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The state fire marshal has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer fire fighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the state fire marshal that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) In the event that a volunteer fire department has met all of the requirements of subsection (9) of this section the state fire marshal may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld *pursuant to subsection (8) of this section* during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection *(16)* [~~(2)~~] of this section [~~during the following fiscal year~~].

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The state fire marshal shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) If during any fiscal year funds allotted to and appropriated for the volunteer fire department aid fund are insufficient to provide for the total projected cost for all eligible expenditures to the volunteer fire department aid fund program as prescribed herein, the secretary of the finance and administration cabinet, subject to the availability of excess funds, may allocate a portion of surcharge monies made available to the professional fire fighters foundation program fund as provided in KRS 136.392 and 42.190, to the volunteer fire department aid fund in an amount not to exceed the projected deficit of the volunteer fire department aid fund for the fiscal year in question; provided, however, no such allocation shall be made until sufficient funds are on deposit to the professional fire fighters foundation program fund trust and agency account in an amount equal to the total projected cost for the fiscal year for all eligible expenditures as prescribed in KRS 95A.200 to 95A.300.

(15) If funds allocated and appropriated for the volunteer fire department aid fund pursuant to KRS 136.392(2) and otherwise made available to this fund pursuant to subsection (14) of this section, are insufficient to provide for the total projected cost for the fiscal year for all eligible expenditures to the volunteer fire department aid fund, the fund's administrator shall establish a rate of assistance to be paid to each eligible volunteer fire department.

(16) If funds earmarked for specific expenditures pursuant to this section remain unexpended at the end of any fiscal year, those funds shall be reappropriated to the volunteer fire department aid fund and used solely for those purposes specified herein.

SECTION 6. A NEW SECTION OF KRS 15.410 TO 15.510 IS CREATED TO READ AS FOLLOWS:

Each fiscal year of the biennium, one hundred thousand dollars ($100,000) of law enforcement foundation program funds shall be allocated to and appropriated for the sole purpose of funding sheriff personnel training at the Kentucky sheriffs' academy of Western Kentucky University. Any expenditure of these funds shall be properly accounted for and reported in a manner prescribed by the secretary. If any money in the sheriffs' academy fund remains uncommitted, unobligated or unexpended at the close of the first fiscal year of the biennium, the moneys shall be carried forward to the second fiscal year, and shall be reallocated to and reappropriated for the use of the sheriffs' academy fund, in addition to the second fiscal year's allocation of one hundred thousand dollars ($100,000).

HCR 109, A CONCURRENT RESOLUTION directing the Interim Joint Committee on State Government to study state procurement policies as they relate to minority owned businesses.

WHEREAS, the General Assembly desires to create business opportunities for minority owned businesses seeking to do business with the Commonwealth; and

WHEREAS, there are a vast number of minority owned businesses that could provide quality products and services to the Commonwealth; and

WHEREAS, many states are developing minority business enterprise systems to insure that minority owned businesses receive their fair share of state contracts; and

WHEREAS, the Commonweath of Kentucky should develop and implement a minority business enterprise system:

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on State Government shall study the Commonwealth's current policies on the procurement of state contracts by minority owned businesses.

Section 2. The Interim Joint Committee on State Government shall consider and, as necessary, develop legislative proposals and recommendations in order to develop and implement a minority business enterprise system in the Commonwealth of Kentucky.

Section 3. The Interim Joint Committee on State Government shall report its findings and recommendations to the Legislative Research Commission on or before December 1, 1989.

Section 4. Legislative Research Commission staff services to be utilized in the conduct of this study are estimated to cost $10,000, and shall be provided from the regular Commission budget, subject to the limitations and other research responsibilities of the Commission.

HCR 110, A CONCURRENT RESOLUTION directing the Program Review and Investigations Committee to study the implementation of a performance measurement system for state government programs and agencies.

WHEREAS, the General Assembly is charged with appropriating the revenues accruing to the Commonwealth of Kentucky; and

WHEREAS, the General Assembly is required to ensure the proper and efficient use of the revenues of the Commonwealth; and

WHEREAS, the current budget process of the Commonwealth provides detailed information on the allocation of revenues; and

WHEREAS, the current budget process does not provide a mechanism for determining the results of these appropriations in terms of the amount of service provided and the impact of these services on the well-being of the citizens Commonwealth; and

WHEREAS, the citizens of the Commonwealth have a right to know what benefits are derived from the monies appropriated and at what cost;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the Program Review and Investigations Committee undertake a study to determine the feasibility of establishing performance measurement indicators for all agencies and programs of state government. These indicators should consider the needs of the standing committees of the General Assembly with regards to the monitoring and review of state agencies, programs and budgets within their jurisdictions. This study should consider, but not be limited to, the following:

(1) What level and kinds of information should be routinely collected and reported in order to provide data on the level and cost of services, previous performance and cost and comparitive data across state government agencies;

(2) Identification of legislative or executive changes in process or procedure which may be necessary to implement a successful performance measurement system; and

(3) A suggested strategy or strategies for implementing such a system.

Section 2. Staff services to be utilized in the study are estimated to cost $25,000. Services and staff support are to be provided by the Legislative Research Commission from the regular Commission budget and are subject to the limitations and other research responsibilities of the Commission and the Committee.

SB 121, AN ACT relating to special ballots.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.085 is amended to read as follows:

(1) All requests for an application for a special ballot and all applications for a special ballot shall be transmitted only by mail or in person as specifically provided by this section. The county clerk shall provide, but only by the method provided by this section, a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting to a voter who presents a completed application for a special ballot as provided in this section and who is properly registered as stated in his application. Application for a special ballot shall be made as follows:

(a) Any qualified voter in any county who shall be absent from the county on any election day or any person incarcerated in jail who has been charged for a crime but has yet to be convicted of the said crime may, at any time not less than seven (7) days before the election, make application in person or by mail to the county clerk for a special ballot. A single application shall entitle a voter who qualifies to receive two (2) ballots, as provided by this section, to receive both such ballots. All requests for an application for a special ballot and all applications for a special ballot shall be made in person or by mail, at the option of the voter, except that the county clerk shall hand an application for a special ballot to the voter who appears in person to request such application, or shall mail such application to a voter who requests such application by mail. Such application shall be restricted to use of the voter or the spouse, parents or dependent children of the voter; and

(b) Residents of Kentucky, who are members of the armed forces, or dependents of members of the armed forces, may apply for an absentee ballot by means of the federal post-card application. Such applications may be used to register, re-register and to apply for an absentee ballot. If the federal post-card application is received at any time not less than seven (7) days before the election, the county clerk shall affix his seal to such application form upon receipt.

(2) The clerk shall type the name of the voter on the application form for that person's use and no other. The application form shall be in the form prescribed by the state board of elections, shall bear the seal of the county clerk and shall contain the following information: name, residential address, precinct, party affiliation, statement of absence on election day, statement of where the voter shall be on election day, statement of compliance with residency requirements for voting in said precinct and the voter's mailing address for a special ballot. The form shall be verified and signed by the voter. A notice of the actual penalty provisions in KRS 117.995(2) and (4) shall be printed on the application.

(3) If the county clerk finds that the voter is properly registered as stated in his application, he shall mail to the voter a special ballot, two (2) official envelopes for returning the ballot, and instructions for voting:

(a) Except as otherwise provided by this subsection, special ballots which are requested prior to the printing of such ballots shall be mailed by the county clerk to the voter within three (3) days of the receipt of such ballots; and special ballots which are requested subsequent to the receipt of such ballots by the county clerk shall be mailed to the voter within three (3) days of the receipt of such request;

(b) At any general election at which names of candidates to federal office shall appear on the ballot, certain voters shall be mailed only one (1) ballot, which shall include the names of all candidates for which such voters are entitled to vote. Voters to receive only one (1) ballot shall be those voters who shall be:

1. Outside the fifty (50) states on the day of the election but whose request for a special ballot shall be received subsequent to the printing of the ballot containing the names of all candidates for which such voters are entitled to vote; and

2. Within the fifty (50) states on the day of the election; and

(c) At any general election for which separate ballots shall be printed for candidates for election to federal office, voters who shall be outside the fifty (50) states on the day of the election and who request a special ballot prior to the printing of the ballot containing the names of candidates exclusive of candidates to federal office, shall receive two (2) ballots. The first ballot shall contain the names of candidates to federal office, and the second shall contain the names of all candidates for which the voter is entitled to vote, exclusive of candidates to federal offices.

(4) The clerk shall cause ballots to be printed for each primary or general election:

(a) Each primary, fifty (50) days prior to the primary;

(b) Each general election:

1. Names of candidates to federal office and no others, fifty (50) days prior to the election;

2. Names of the remaining candidates, thirty-eight (38) days prior to the election; and

3. Names of all candidates, thirty-eight (38) days prior to the election.

(5) The outer envelope shall bear the words "Special Ballot" and the address and official title of the county clerk and shall provide space for the voter's signature, voting address and precinct number. A detachable flap on the inner envelope shall provide space for the voter's signature, voting address, precinct number and notice of penalty provided in KRS 117.995(4). The clerk shall type the voter's address and precinct number in the upper left hand corner of the outer envelope and of the detachable flap on the inner envelope immediately below the blank space for the voter's signature. The inner envelope shall be blank. The clerk shall retain the application for twenty-two (22) months after the election.

(6) [~~A list of persons to whom special ballots are mailed shall be posted in the clerk's office, for public inspection, and a list shall be included in the supplies sent to each precinct on election day and shall be posted at the polling place throughout the voting hours on election day.~~

~~(7)~~] Any person who has been mailed a special ballot but who shall be in his voting precinct on election day may cancel his special ballot and vote in person if he appears at the county clerk's office at least seven (7) days prior to election day and returns his special ballot. Upon such personal appearance of the voter, the clerk shall mark on the outer envelope of the sealed ballot or the unmarked ballot the words "Cancelled because voter appeared to vote in person." Sealed envelopes so marked shall not be opened. The clerk shall remove the voter's name from the list of persons who were sent special ballots, and the voter may vote in the precinct in which he is properly registered.

SB 145, AN ACT proposing an amendment to Section 19 of the Constitution of Kentucky relating to contracts.

WHEREAS, the General Assembly wishes to clarify the purposes of this Act; and

WHEREAS, it is necessary to facilitate and require the demonstration of a clear understanding between the owners of surface and mineral estates in land concerning their respective rights to use and occupy or injure the surface of the land; and

WHEREAS, it is desirable to protect the security of titles to land and improvements thereto; and

WHEREAS, the free alienability of land must be promoted; and

WHEREAS, we must prevent hardship and injustice to surface or mineral owners arising from uncertainty of the law; and

WHEREAS, we should promote the conservation and the full and efficient use of all natural resources of the state, including the land, the making of improvements to the land, the growth of agriculture, the development of new industry and the general economic well-being of the state and its people; and

WHEREAS, we should codify a rule of construction for mineral deeds relating to coal extraction so as to implement the intention of the parties at the time the instrument was created; and

WHEREAS, it is desirable to foster certainty and uniformity in the operation of the law;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 19 of the Constitution of Kentucky be amended to read as follows:

(1) No ex post facto law, nor any law impairing the obligation of contracts, shall be enacted.

(2) In any instrument heretofore or hereafter executed purporting to sever the surface and mineral estates or to grant a mineral estate or to grant a right to extract minerals, which fails to state or describe in express and specific terms the method of coal extraction to be employed, or where said instrument contains language subordinating the surface estate to the mineral estate, it shall be held, in the absence of clear and convincing evidence to the contrary, that the intention of the parties to the instrument was that the coal be extracted only by the method or methods of commercial coal extraction commonly known to be in use in Kentucky in the area affected at the time the instrument was executed, and that the mineral estate be dominant to the surface estate only for the purposes of coal extraction by the method or methods of commercial coal extraction commonly known to be in use in Kentucky in the area affected at the time the instrument was executed.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Amendment No. 1 to **SB 145** is as follows:

Amend printed copy of **SB 145** on page 2, line 19, at the beginning of the line, by deleting "*only*";

and on line 19, after "*by*" by inserting "*only*".

SB 192, AN ACT relating to disaster and emergency services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 39.415 is amended to read as follows:

(1) Each county, urban-county or metropolitan government, or city of this state shall establish a local organization for disaster and emergency preparedness, response and recovery consistent with a plan adopted in accordance with the provisions of this chapter. The county judge/executive of each county and the chief executive of each city or urban-county or metropolitan government thereof shall appoint a director who shall have direct responsibility for the organization, administration and operation of such local organization for disaster and emergency response, subject to the direction and control of such appointing officer. The mayor of a city may appoint a director or by joint agreement provide for direction by the director named by the county judge/executive.

(2) Counties, urban-county or metropolitan governments, and cities may, in lieu of providing separate

disaster and emergency response plans or programs, join in and adopt an areawide plan or program provided such program:

(a) Meets the criteria of the state disaster and emergency response plan: and

(b) Is consummated pursuant to KRS Chapter 147A or the inter-local cooperation act; and

(c) Is provided with sufficient manpower, equipment, and funding by each contracting party or the state planning committee so as to assure high quality planning and service to all of the parties.

(3) All local, regional or multijurisdictional organizations for disaster and emergency response shall comply with all applicable portions of the state disaster and emergency response plan.

(4) All local, regional or multijurisdictional organizations for disaster and emergency response, and the directors and members of each, shall, for all purposes, be under the direction and jurisdiction of the director of the division and of the governor whenever the latter shall deem such action necessary.

(5) A director appointed under the provisions of subsection (1) of this section shall serve at the pleasure of the appointing authority, but shall serve not longer than four (4) years without reappointment.

(6) A local disaster and emergency services organization which qualifies for financial reimbursement from the state division of disaster and emergency services and which pays a salary to a director appointed under the provisions of subsection (1) of this section shall be reimbursed at a rate of not more than fifty percent (50%) of the total salary and benefits if funds are available and if all of the following criteria are met:

(a) The director shall be a high school graduate with an additional three (3) years of experience in business administration, industrial or commercial planning, safety, management of emergency services, or related community or governmental service. Management level experience may be substituted for education on a year-for-year basis.

(b) The director shall be a resident of the Commonwealth of Kentucky.

(c) The director shall hold no partisan elective office.

(d) The director shall be routinely available to respond to emergency scenes, command posts, or operations centers to coordinate emergency response of public and private agencies and organizations, to attend training, or to attend meetings convened by the appointing authority or the disaster and emergency services area coordinator.

1. If the director is also a full-time or part-time employe of the federal or state government, he must have written authorization from the appropriate appointing authority to hold the position of director and to comply with the provisions of paragraph (d) of this subsection.

2. If the director is also a full-time or part-time employe of county, city, urban county or metropolitan government in another capacity, that government must enact an order or ordinance specifying that he will routinely be available to respond to emergencies, attend training, and to attend meetings convened by the disaster and emergency services area coordinator. The order or ordinance shall also specify that the individual, when acting as director, shall relinquish authorities and responsibilities associated with his other governmental employment and shall name a person to assume those authorities and responsibilities until such time as the director shall cease to function as director. In no case shall the county, city, urban county or metropolitan government seek reimbursement for the director's salary for any time spent in another capacity.

3. If the director is also a full-time or part-time employe in the private sector, he shall have a letter from his employer stating that he shall, without penalty, be permitted to comply with the provisions of paragraph (d) of this subsection.

4. If the director is self-employed, he must certify, by letter, that his schedule shall permit him to comply with the provisions of paragraph (d) of this subsection.

(7) A director whose salary has been reimbursed by the division of disaster and emergency services prior

to January 1, 1988 shall not be subject to the provisions of subsection (6)(a) of this section, so long as he remains continuously in that position in the jurisdiction which appointed him.

(8) If, at any time, the executive director of disaster and emergency services determines that a local director does not comply with the eligibility requirements of subsection (6) of this section, he shall notify that director of his intent to terminate financial reimbursement for his salary. The local director shall have ten (10) working days to come into compliance or to provide information to the executive director to justify continued funding. If the executive director continues to determine that the local director does not meet eligibility requirements, he shall terminate reimbursement. The local director may appeal the decision to the adjutant general within thirty (30) calendar days from the date of that decision. Within ten (10) working days the adjutant general shall render a decision. If the adjutant general is on active military duty or is otherwise unavailable, he may assign a deputy or assistant who is not assigned to the division of disaster and emergency services to rule upon the appeal. A local director aggrieved by a decision of the adjutant general or his designee may appeal to the Franklin circuit court within twenty (20) days of the receipt of the adjutant general's decision. The court's review shall be from the record and shall not be de novo.

(9) A local director whose salary is reimbursed in part or in full by the division of disaster and emergency services shall also meet all requirements which may be imposed by the federal emergency management agency or its successor.

SB 237, AN ACT relating to the cabinet for economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11.065 is amended to read as follows:

(1) The secretaries of the justice cabinet, the education and humanities cabinet, the natural resource and environmental protection cabinet, the transportation cabinet, the *cabinet for economic development* [~~commerce cabinet~~], the public protection and regulation cabinet, the cabinet for human resources, the finance and administration cabinet, the energy cabinet, the corrections cabinet, the revenue cabinet, the tourism cabinet, the labor cabinet the secretary of the governor's executive cabinet and the lieutenant governor shall constitute the governor's executive cabinet. There shall be a vice-chairman appointed by the governor who shall serve in an advisory capacity to the executive cabinet. The governor shall be the chairman and the secretary of the finance and administration cabinet shall be a second vice-chairman of the executive cabinet. The governor may designate others to serve as vice-chairmen.

(2) The cabinet shall meet not less than once every two (2) months and at other times on call of the governor. The executive cabinet shall be a part of the office of the governor and shall not constitute a separate department or agency of the state. Members of the cabinet shall be the major assistants to the governor in the administration of the state government and shall assist the governor in the proper operation of his office and perform such other duties as the governor may require of them.

(3) The cabinet shall consider such matters involving policies and procedures as the governor or any member may place before it. The cabinet shall advise and consult with the governor on all matters affecting the welfare of the state.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets (and their departments) and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily authorized executive order, provided, however, in the case of the personnel board, and where the attached department or administrative body is headed by a constitutionally elected officer such attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of such department or administrative body.

I. Cabinet for general government - Departments headed by elected officers:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.

(a) Attorney general.

5. Department of the treasury.

(a) Treasurer.

6. Department of agriculture.

(a) Commissioner of agriculture.

(b) Kentucky council on agriculture.

7. Department of education.

(a) Superintendent of public instruction.

(b) State board of education.

8. Auditor of public accounts.

9. Railroad commission.

II. Program cabinets headed by appointed officers:

1. Justice cabinet:

(a) Department of state police.

(b) Department of criminal justice training.

(c) Office of administration.

2. Education and humanities cabinet:

(a) Department for the blind.

(b) Department of education.

(c) Department for libraries and archives.

(d) Governor's council on vocational education.

(e) Kentucky industries for the blind.

(f) Kentucky educational television.

(g) Kentucky historical society.

(h) Kentucky teachers retirement system board of trustees.

(i) Kentucky school building authority.

3. Natural resources and environmental protection cabinet:

(a) Environmental quality commission.

(b) Kentucky nature preserves commission.

(c) Department for environmental protection.

(d) Department for natural resources.

(e) Department for surface mining reclamation and enforcement.

(f) Office of general counsel.

(g) Office of communications and community affairs.

4. Transportation cabinet:

(a) Department of highways.

(b) Department of vehicle regulation.

(c) Department of administrative services.

(d) Department of fiscal management.

(e) Department of rural and municipal aid.

(f) Office of aeronautics.

(g) Office of general counsel.

(h) Office of public relations.

(i) Office of personnel management.

(j) Office of minority affairs.

5. *Cabinet for economic development* [~~Commerce cabinet~~]:

(a) Department of *business* [~~economic~~] development.

(b) Department of the arts.

(c) Tobacco research board.

(d) Kentucky development finance authority.

(e) Office of business and technology.

6. Public protection and regulation cabinet:

(a) Public service commission.

(b) Department of insurance.

(c) Department of housing, buildings, and construction.

(d) Department of financial institutions.

(e) Department of mines and minerals.

(f) Department of public advocacy.

(g) Department of alcoholic beverage control.

(h) Kentucky harness racing commission.

(i) Kentucky state racing commission.

(j) Registry of election finance.

(k) Board of claims.

(l) Crime victims compensation board.

(m) Kentucky board of tax appeals.

(n) Backside improvement commission.

7. Cabinet for human resources:

(a) Department for health services.

(b) Department for employment services.

(c) Department for social insurance.

(d) Department for social services.

(e) Department for medicaid services.

(f) Department for mental health and mental retardation services.

(g) Unemployment insurance commission.

(h) Commission for handicapped children.

(i) Public assistance appeals board.

(j) Office of administrative services.

(k) Office of communications and council affairs.

(l) Office of general counsel.

(m) Office of inspector general.

(n) Office of policy and budget.

(o) Office of the ombudsman.

8. Finance and administration cabinet:

(a) Office of legal and legislative services.

(b) Office of management services.

(c) Office of historic properties.

(d) Department for administration.

(e) Department of facilities management.

(f) Department of information systems.

(g) State property and buildings commission.

(h) Kentucky pollution abatement authority.

(i) Kentucky savings bond authority.

(j) Deferred compensation systems.

(k) Office of equal employment opportunity contract compliance.

(l) Capital plaza authority.

(m) County officials compensation board.

(n) Financial disclosure review commission.

(o) Kentucky employes retirement systems.

(p) Commonwealth credit union.

(q) State investment commission.

(r) Kentucky housing corporation.

(s) Governmental services center.

(t) Kentucky local correctional facilities construction authority.

(u) Kentucky turnpike authority.

(v) Historic properties advisory commission.

9. Energy cabinet:

(a) Department of energy production and utilization.

(b) Department of energy research and development.

(c) Office of administration.

(d) Office of energy policy and evaluation.

10. Corrections cabinet:

(a) Parole board.

(b) Commission on corrections and community services.

(c) Department of adult correctional institutions.

(d) Department of community services and facilities.

(e) Office of administrative services.

(f) Office of corrections training.

(g) Office of general counsel.

11. Labor cabinet:

(a) Department of workplace standards.

(b) Department of workers' claims.

(c) Kentucky labor-management advisory council.

(d) Occupational safety and health standards board.

(e) Prevailing wage review board.

(f) Workers' compensation board.

(g) Kentucky employes insurance association.

(h) Apprenticeship and training council.

(i) State labor relations board.

(j) Kentucky occupational safety and health review commission.

(k) Office of administrative services.

(l) Office of labor management relations.

(m) Office of general counsel.

12. Revenue cabinet:

(a) Department of property taxation.

(b) Department of processing and enforcement.

(c) Department of professional and support services.

(d) Office of revenue estimating and economic analysis.

13. Tourism cabinet:

(a) Department of travel development.

(b) Department of parks.

(c) Department of fish and wildlife resources.

(d) Kentucky horse park commission.

(e) State fair board.

(f) Office of administrative services.

(g) Office of general counsel.

III. Other departments headed by appointed officers:

1. Department of military affairs.

2. Department of personnel.

3. Council on higher education.

4. Department of local government.

5. Kentucky commission on human rights.

6. Kentucky commission on women.

Section 3. KRS 12.250 is amended to read as follows:

There are established within state government the following program cabinets:

(1) Justice cabinet.

(2) Education and humanities cabinet.

(3) Natural resources and environmental protection cabinet.

(4) Transportation cabinet.

(5) *Cabinet for economic development* [~~Commerce cabinet~~].

(6) Public protection and regulation cabinet.

(7) Cabinet for human resources.

(8) Finance and administration cabinet.

(9) Energy cabinet.

(10) Corrections cabinet.

(11) Tourism cabinet.

(12) Revenue cabinet.

(13) Labor cabinet.

Section 4. KRS 152.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Commissioner" means commissioner of the department of *business* [~~economic~~] development;

(2) "Department" means department of *business* [~~economic~~] development.

Section 5. KRS 152.020 is amended to read as follows:

(1) There is hereby created an agency of the state government to be known as the department of *business* [~~economic~~] development, which shall constitute a department of the state government within the meaning of KRS Chapter 12. The department shall consist of a commissioner and such administrative bodies and employes as are provided by law.

(2) The department, subject to the provisions of KRS 12.010 to 12.130, shall be organized into a division of research and planning, a division of minority business, a division of small business assistance, a division of industrial development, a business information clearinghouse and such other divisions and sections as are from time to time deemed necessary for the proper and efficient operation of the department.

(3) The executive officer of the department shall be the commissioner of the department of *business* [~~economic~~] development. The commissioner shall be appointed by the governor and shall serve at the pleasure of the governor. The commissioner shall have general supervision and direction over all activities and functions of the department and its employes, and shall be responsible for carrying out the programs and policies of the department. The commissioner shall be the chief executive officer of the department and, as such, shall have authority to enter into contracts, subject to the approval of the secretary of the *cabinet for economic development* [~~commerce cabinet~~] and the secretary of the finance and administration cabinet, when such contracts are deemed necessary to implement and carry out the program of the department.

(4) The division of research and planning, the division of minority business, the division of small business assistance and the division of industrial development shall each be headed by directors appointed pursuant to KRS 12.050.

(5) The office of administrative services shall be headed by an executive director appointed by the secretary, with the approval of the governor, pursuant to KRS 12.050 and shall provide administrative and fiscal service

support and perform all personnel functions for both the department and the office of the secretary of the commerce cabinet.

(6) The business information clearinghouse shall be an independent branch attached to the office of the commissioner and shall be headed by a manager appointed pursuant to KRS 12.050. The branch shall provide comprehensive information on all state business licenses and requirements, and shall develop and administer a master application and licensure program for grocery stores.

Section 6. KRS 152.025 is amended to read as follows:

(1) There is hereby created in the *cabinet for economic development* [~~commerce cabinet~~] an office of business and technology. The office shall:

(a) Be headed by an executive director who shall be appointed by the secretary of *the cabinet for economic development* [~~commerce~~] pursuant to KRS 12.050;

(b) Be attached to the office of the secretary of *the cabinet for economic development* [~~commerce~~] and shall report directly to the secretary;

(c) Be responsible for coordinating and monitoring the various activities being carried out in the Commonwealth by state agencies that relate to adapting advanced technologies to the work place; and

(d) Review and analyze the possibility of establishing research and technology centers in the Commonwealth.

(2) The cost of administrative facilities and services for the office of business and technology shall be paid by the *cabinet for economic development* [~~commerce cabinet~~].

Section 7. KRS 154.325 is amended to read as follows:

(1) The commission may appoint an executive director to be the chief administrative officer of the commission, and to assist in carrying out the functions and purposes of KRS 65.510 to 65.530, 139.483, 154.310 to 154.345. The executive director and other employes of the commission shall, for administrative purposes, be attached to the department of *business* [~~economic~~] development, under the supervision and control of the commissioner of *business* [~~economic~~] development. The department of *business* [~~economic~~] development shall furnish office space.

(2) The executive director shall be entitled to compensation set by the commission and shall be allowed travel, subsistence, and other expenses incurred in the performance of his duties as may be provided from time to time for other employes of the Commonwealth.

Section 8. KRS 157.720 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the department of education for administrative purposes.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including: the commissioner of employment services, the secretary of *the cabinet for economic development* [~~commerce~~], the secretary of labor, the chairman of the council on higher education, and the superintendent of public instruction. Thirteen (13) members shall be appointed by the governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the governor shall serve for a term of four (4) years, except that in making the initial appointments the

governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be for a term of four (4) years.

(4) In the event of a vacancy, the governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the governor for cause.

(6) The governor shall designate a member of the board as its chairman.

(7) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice-chairman, secretary and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The board shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employes of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

Section 9. The reviser of statutes shall make all changes in the Kentucky Revised Statutes necessary and appropriate to carry out the intent of this Act relating to the Cabinet for Economic Development and specifically wherever the following language appears in the existing statutes, either expressly, implied, or by words of reference, the language shall be changed by the reviser of statutes to read as follows:

1. "Commerce Cabinet" to "Cabinet for Economic Development"; and

2. "Department of Economic Development" to "Development of Business Development."

SB 270. AN ACT relating to state personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.095 is amended to read as follows:

(1) A classified employe with status shall not be dismissed, demoted, suspended or otherwise penalized except for cause.

(2) Prior to dismissal, a classified employe with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time and place of such action or activity; and

4. The name of the parties involved; and

(b) That the employe has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or his deputy.

(3) The department shall prescribe and distribute a form to be completed and forwarded by an employe who wishes to appear before the head of the cabinet or his deputy, to each appointing authority. Such form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employe under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(4) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives such notice, the employe may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or his deputy.

(5) Such appearance shall be scheduled six (6) working days after receipt of an employe's request to appear before the head of the cabinet or his deputy, excluding the day his request is received.

(6) No later than five (5) working days after the employe appears before the head of the cabinet or his deputy, excluding the day of the appearance, the cabinet head or his deputy shall:

(a) Determine whether to dismiss the employe or to alter, modify or rescind the intent to dismiss; and

(b) Notify the employe in writing of the decision.

(7) If the cabinet head or his deputy determines that the employe shall be dismissed or otherwise penalized, the employe shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for such action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time and place of such action or activity; and

4. The name of the parties involved;

(c) That he may appeal such dismissal or other penalization to the board within thirty (30) days after receipt of this notification, excluding the day he receives notice.

(8) A classified employe with status who is demoted, suspended or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension or other penalization;

(b) The effective date of the demotion, suspension or other penalization;

(c) The specific reason for such action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension or other penalization is based;

3. The date, time and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within thirty (30) days, excluding the day that he received notification.

(9) Any unclassified employe who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after such dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(10) (a) An employe whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the commissioner within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the commissioner on which to request reconsideration; and

(c) The employe shall file a written request for reconsideration of the reallocation of his position with the commissioner in such manner and form as the commissioner may prescribe, and shall be given a reasonable opportunity to be heard thereon by the commissioner. The commissioner shall make a determination within sixty (60) days after the request has been filed by an employe. After reconsideration of the request by the commissioner, the employe may appeal to the board.

(11) Any state employe, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employe, applicant or eligible, and whether his right to inspect or copy such was denied, abridged or impeded. If the board determines that the records related to the employe and that the right to inspect or copy such records has been denied, abridged or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employe, an applicant for employment and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(12) Any classified employe may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, handicap, or age between forty (40) and seventy (70). Nothing herein shall be construed to preclude any classified or unclassified employe from filing with the Kentucky commission on human rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, handicap or age in accordance with KRS Chapter 344.

(13) When an eligible's name is removed from a register, the commissioner shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the commissioner or in accordance with the decision of the board.

(14) (a) Any employe, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of such rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the commissioner pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of such examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(15) An evaluation may be appealed to the board if an employe has complied with the review procedure established under KRS 18A.112.

(16) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employe's place of work. The department shall be responsible for the distribution of such forms;

(b) The appeal form shall be attached to any notice, or copy of such notice, of dismissal, demotion, suspension, fine, involuntary transfer or other penalization, reallocation, or notice of any other action an employe may appeal under the provisions of this section. The appeal form shall instruct the employe to state whether he is a classified or unclassified employe, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address and telephone number of his attorney;

(c) The form shall also instruct a classified employe to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employe to make a short, plain, concise statement of the reason or cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the department of personnel shall be notified and the board shall schedule a hearing within the time limits prescribed by this section.

(17) All notices from the board shall be in writing. Notices shall be written so as to be understood by non-attorneys.

(18) (a) The appealing employe and the appointing authority whose action is reviewed shall have the right to be heard publicly and to be represented by counsel to present evidentiary facts;

(b) Except as provided herein, an appeal shall be decided by the board only after a hearing. The board shall not deny, reject or sustain an appeal, or make any other determination relating to an appeal, except after a hearing is conducted pursuant to the provisions of this section;

(c) The board may deny a hearing to an employe who has failed to file an appeal within the time prescribed by this section; and to an unclassified employe who has failed to state the cause for which he has been dismissed. The board shall notify the employe of its denial in writing and shall inform the employe of his right to appeal such denial under the provisions of KRS 18A.100;

(d) Any investigation by the board of any matter related to an appeal filed by an employe shall be conducted only upon notice to the employe, the employe's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by such investigations and such information shall be presented at the hearing. Any party to the hearing shall be permitted an adequate opportunity to rebut or comment upon such information;

(e) Each appeal shall be decided on its merits and the board shall base its decision upon the evidence, facts and information contained in the record.

(19) At the hearing of such appeals, technical rules of evidence shall not apply. Upon its own motion or upon request by a party, the board may require the production by a party, a state employe or a state agency of documents, records and other material relevant to the appeal.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Except as authorized by law, a board member [~~or an employe of the board~~] shall neither initiate, participate in, nor consider ex parte communications, *nor shall any employe of the board initiate ex parte communications* concerning a pending or impending proceeding before the board. Board members shall abstain from public comment about a pending or impending proceeding before the board[~~, and shall require similar abstention on the part of board personnel subject to the board's direction and control~~]. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) (a) An appeal to the board may be heard by[~~:~~

~~1.~~] the full board *or one (1) or more of the following: Its executive director, its general counsel, any non-elected member of the board, or any of its hearing officers hired by personal service contract.* [~~;~~

~~2. Two (2) non-elected board members;~~

~~3. A non-elected member of the board and its executive director;~~

~~4. A non-elected member of the board and a hearing officer;~~

~~5. The executive director and a hearing officer; or~~

~~6. The general counsel of the board and either a non-elected member of the board, the executive director or a hearing officer;~~]

(b) Any appeal heard by less than the full board shall be reviewed by the full board before a final order of the board is issued:

1. Prior to a final order of the board, the board shall provide a copy of the findings of fact and recommendations to the parties to the appeal and shall provide them with an opportunity to submit written exceptions and responses to such findings of fact and recommendations. At the request of a party or on its own motion, the board shall permit oral argument before the full board. Such request shall be filed with the board within fifteen (15) days of the recommended order issued by a member, the executive director, or a hearing officer; and

2. The board shall review the record of the evidence presented, the findings of fact and recommendations of the hearing officer, and the written exceptions and responses filed by parties to the appeal.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or handicap, the appointing authority shall, immediately reinstate the employe to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employe to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employe whole;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall alter, modify or rescind the disciplinary action;

(d) In all other cases, the board shall rescind the action taken or otherwise grant such other relief to which the employe is entitled.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employe who prevails by a final adjudication on the merits as provided by KRS 453.260. Such award shall not include attorney fees attributable to the hearing before the board.

(25) When any employe is dismissed and not ordered reinstated after such appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employe who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employes who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) The board shall, within sixty (60) days after an appeal is filed, hear the appeal, and shall, within ninety (90) days after an appeal is filed, issue a final determination for the disposition thereof.

(28) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employe shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

SCR 69, A CONCURRENT RESOLUTION creating the Kentucky Retirement Systems and the Teachers Retirement System Study Commission, and making an appropriation therefor.

WHEREAS, retirement programs are an important part of the compensation and benefit packages of state employes and teachers; and

WHEREAS, the costs of retirement programs are greatly affected by management and investment practices over a long period of time; and

WHEREAS, the benefit structures of retirement programs should be designed according to a coherent philosophy that defines desirable benefit levels and seeks equity among employe groups; and

WHEREAS, the benefit structures of retirement programs are subject to many pressures for change which may be uncoordinated and pursued without adequate attention to the ultimate goals to be achieved; and

WHEREAS, the welfare of state employes and teachers must be promoted by retirement plans which are well designed, well managed and well funded, and the welfare of the state is served by achieving these goals;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. The Kentucky Retirement Systems and Teachers Retirement System study commission shall conduct a study of the Teachers Retirement System, the Kentucky Employes Retirement System, the State Police Retirement System and the County Employes Retirement System. This study shall include an evaluation of the management and investment practices of these systems, and an evaluation of the funding status of each system. The actuarial valuation of each system shall be conducted by a firm selected by the Governor, but actuaries retained shall be either fellows of the Society of Actuaries, members of the American Academy of Actuaries, or enrolled actuaries under the terms of the federal Employes' Retirement Income Security Act of 1974.

Section 2. The study shall include consideration of the retirement income goals which should be attained by public employe retirement programs, and the current status of Kentucky public retirement systems with respect to those goals. Attention shall be given to the relation of benefit programs one to another, and whether there is equity of benefits among the various employe groups served.

Section 3. The Kentucky Retirement System and Kentucky Teachers Retirement System study commission shall determine the impact on these systems of a twenty-seven year retirement program for participants in the respective systems. The study shall include an evaluation of the effects on the retirement systems that would be caused by mandatory participation in the federal social security system. This portion of the study shall include an evaluation of the additional costs to be borne by participating in the social security system, the need for additional contributions to be paid into the retirement systems by both employes and employers due to such participation in the social security system and the impact on benefits received by members of the affected retirement system.

Section 4. Further attention shall be given to the processes whereby public retirement systems in Kentucky are designed and amended, and whether these processes can be better structured to assure the attainment of long term goals.

Section 5. The Kentucky Retirement Systems and Teachers Retirement System study commission shall be comprised of four members. The Governor shall appoint two members. One member shall be a member of the Senate committee on appropriations and revenue, selected by the chairman, and one member shall be a member of the House committee on appropriations and revenue, selected by the chairman.

Section 6. There shall be appropriated the sum of one hundred thousand dollars ($100,000) from the Governor's state planning fund to conduct this study, and this appropriation shall not lapse.

Section 7. The commission shall report its findings to the Legislative Research Commission no later than August 1, 1989.

Calendar

HB 959, **HB 843**, **HB 900**, **SB 249**, **SCR 53**, **HB 76**, **HB 678**, **HB 792**, **HB 812**, **HB 872**, **HB 1008**, **HCR 120**, **HB 396**, **HB 858**, **SB 96**, **SB 97**, **SB 99** and **SB 178** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

SB 271 and **HB 623** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 643 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative T. Jones moved that **HB 643** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 17, 1988 roll call on **HB 643** - Appendix A.)

HB 643 was passed and the title agreed to.

Representative T. Jones moved that the vote by which **HB 643** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 764, with Committee Amendments and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Noe moved the adoption of Committee Amendment No. 1 to **HB 764**. Agreed.

Representative Noe moved the adoption of Committee Amendment No. 2 to **HB 764**. Agreed.

Representative Noe moved the adoption of Committee Amendment No. 3 to **HB 764**. Agreed.

Representative Noe moved the adoption of Floor Amendment No. 1 to **HB 764**. Agreed.

Representative Noe moved the adoption of Floor Amendment No. 2 to **HB 764**. Agreed.

Representative Noe moved that **HB 764**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 1. (See March 17, 1988 roll call on **HB 764** - Appendix A.)

HB 764, as amended, was passed and the title agreed to.

Representative Noe moved that the vote by which **HB 764**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 513, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Committee Substitute to **HB 513**. Agreed.

Representative Ford moved that **HB 513**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 86, Nays 0. (See March 17, 1988 roll call on **HB 513** - Appendix A.)

HB 513, by way of Committee Substitute, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 513**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 464** be recommitted to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that **HB 930** and **HB 740** be recommitted to the Committee on Natural Resources and Environment. Agreed.

HB 955, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lundergan moved the adoption of Floor Amendment No. 1 to **HB 955**. Agreed.

Representative Lundergan moved that **HB 955**, as amended, be passed.

On the roll call the vote was: Yeas 45, Nays 24. (See March 17, 1988 roll call on **HB 955** - Appendix A.)

HB 955, as amended, was passed and the title agreed to.

Representative Lundergan moved that the vote by which **HB 955**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 868, with Committee Substitute, Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Committee Substitute to **HB 868**. Agreed.

Representative Blevins moved the adoption of Committee Amendment No. 1 to **HB 868**. Agreed.

Representative Blevins moved the adoption of Floor Amendment No. 1 to **HB 868**. Agreed.

Representative Blevins moved that **HB 868**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17, 1988 roll call on **HB 868** - Appendix A.)

HB 868, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 868**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 574, as amended by Committee Amendment No. 1 and with Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed by a majority of members elected.

Representative Blevins moved the adoption of Floor Amendment No. 2 to **HB 574**. Agreed.

Representative Blevins moved that **HB 574**, as amended, be passed.

On the roll call the vote was: Yeas 91, Nays 4. (See March 17, 1988 roll call on **HB 574** - Appendix A.)

HB 574, as amended, was passed and the title agreed to.

Representative Blevins moved that the vote by which **HB 574**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 343, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Morris moved the adoption of Committee Substitute to **HB 343**. Agreed.

Representative Morris moved that **HB 343**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17, 1988 roll call on **HB 343** - Appendix A.)

HB 343, by way of Committee Substitute, was passed and the title agreed to.

Representative Morris moved that the vote by which **HB 343**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 452, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Kerr moved the adoption of Committee Substitute to **HB 452**. Agreed.

Representative Kerr moved the adoption of Floor Amendment No. 1 to **HB 452**. Agreed.

Representative Handy moved the adoption of Floor Amendment No. 2 to **HB 452**. Agreed.

Representative Johnson moved the adoption of Floor Amendment No. 3 to **HB 452**. Agreed.

Representative Hourigan moved the adoption of Floor Amendment No. 4 to **HB 452**. Agreed.

Representative Kerr moved that **HB 452**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 17, 1988 roll call on **HB 452** - Appendix A.)

HB 452, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Kerr moved that the vote by which **HB 452**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 310, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved the adoption of Committee Substitute to **HB 310**. Agreed.

Representative Long moved that **HB 310**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 17, 1988 roll call on **HB 310** - Appendix A.)

HB 310, by way of Committee Substitute, was passed and the title agreed to.

Representative Long moved thatthe vote by which **HB 310**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 637 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 637** be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17, 1988 roll call on **HB 637** - Appendix A.)

HB 637 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 637** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 784 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gedling moved that **HB 784** be passed.

On the roll call the vote was: Yeas 90, Nays 0. (See March 17, 1988 roll call on **HB 784** - Appendix A.)

HB 784 was passed and the title agreed to.

Representative Gedling moved that the vote by which **HB 784** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 806, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Heleringer moved the adoption of Committee Amendment No. 1 to **HB 806**. Agreed.

Representative Heleringer moved that **HB 806**, as amended, be passed.

On the roll call the vote was: Yeas 89, Nays 2. (See March 17, 1988 roll call on **HB 806** - Appendix A.)

HB 806, as amended, was passed and the title agreed to.

Representative Heleringer moved that the vote by which **HB 806**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 808, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Donnermeyer moved the adoption of Committee Substitute to **HB 808**. Agreed.

Representative Donnermeyer moved that **HB 808**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 17, 1988 roll call on **HB 808** - Appendix A.)

HB 808, by way of Committee Substitute, was passed and the title agreed to.

Representative Donnermeyer moved that the vote by which **HB 808**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 810, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Jones moved the adoption of Committee Amendment No. 1 to **HB 810**. Agreed.

Representative Ark moved the adoption of Floor Amendment No. 1 to **HB 810**.

Representative A. Jones inquired if Floor Amendment No.1 was germane to **HB 810**.

The Speaker ruled that Floor Amendment No. 1 to **HB 810** was properly done.

Representative Morris inquired if Floor Amendment No. 1 to **HB 810** was properly drafted.

The Speaker ruled Floor Amendment No. 1 to **HB 810** was properly drafted.

Representative Ark moved the adoption of Floor Amendment No. 1 to **HB 810**. Rejected.

Representative Long moved that **HB 810**, as amended, be passed.

On the roll call the vote was: Yeas 76, Nays 12. (See March 17, 1988 roll call on **HB 810** - Appendix

A.)

HB 810, as amended, was passed and the title agreed to.

Representative Long moved that the vote by which **HB 810**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 961 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Freibert moved that **HB 961** be passed.

On the roll call the vote was: Yeas 92, Nays 0. (See March 17, 1988 roll call on **HB 961** - Appendix A.)

HB 961 was passed and the title agreed to.

Representative Freibert moved that the vote by which **HB 961** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1017, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of Committee Amendment No. 1 to **HB 1017**. Agreed.

Representative Richards moved that **HB 1017**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 17, 1988 roll call on **HB 1017** - Appendix A.)

HB 1017, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 1017**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 381, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of Committee Substitute to **HB 381**. Agreed.

Representative Burch moved the adoption of Floor Amendment No. 1 to **HB 381**. Agreed.

Representative Burch moved that **HB 381**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 17, 1988 roll call on **HB 381** - Appendix A.)

HB 381, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 381**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Burch requested a roll call be taken to show co-sponsors of **HB 381**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HB 381**: Adams, Altman, Ark, Ballard, Blevins, Bronger, M. Brown, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hoover, Hourigan, Jackson, Johnson, A. Jones, Kerr, Lear, LeMaster, Lile, Little, Long, Lundergan, Lyne, Mack, Maggard, Mason, McBee, McElroy, Moberly, Napier, Nett, Noe, Northup, Overstreet, Preston, Priddy, Pritchett, Reinhardt, Richards, Ridley, Riner, Robinson, Scorsone, Seum, Siler, R. Smith, Strong, Stumbo, Todd, Walker, White, Will, Worthington, Yates.

HB 1002 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riner moved that **HB 1002** be passed.

On the roll call the vote was: Yeas 80, Nays 6. (See March 17, 1988 roll call on **HB 1002** - Appendix A.)

HB 1002 was passed and the title agreed to.

Representative Riner moved that the vote by which **HB 1002** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 688, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Strong moved the adoption of Committee Substitute to **HB 688**. Agreed.

Representative Strong moved that **HB 688**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 93, Nays 0. (See March 17, 1988 roll call on **HB 688** - Appendix A.)

HB 688, by way of Committee Substitute, was passed and the title agreed to.

Representative Strong moved that the vote by which **HB 688**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 672, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Committee Substitute to **HB 672**. Agreed.

Representative Gray moved the adoption of Floor Amendment No. 1 to **HB 672**. Agreed.

Representative Gray moved that **HB 672**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 64, Nays 24. (See March 17, 1988 roll call on **HB 672** - Appendix A.)

HB 672, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 672**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 695, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Handy moved the adoption of Floor Amendment No. 1 to **HB 695**. Agreed.

Representative Strong moved the adoption of Committee Amendment No. 1 to **HB 695**. Agreed.

Representative Handy moved that **HB 695**, as amended, be passed.

Representative B. Richardson moved that the vote on Committee Amendment No. 1 to **HB 695** be reconsidered. Agreed.

Representative A. Jones moved that **HB 695**, as amended, be laid on the Clerk's Desk.

On the roll call the vote was yeas 57-Adkins, Allen, Altman, Ark, Arnold, Ballard, Barrows, J. Brown, Callahan, Castleman, Clarke, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Freibert, Geveden, Gray, Gregory, J. Harper, K. Harper, Hoover, Hourigan, Jackson, Johnson, A. Jones, T. Jones, Kerr, Layman, Lear, LeMaster, Little, Maggard, McBee, McElroy, Meyer, Moberly, Morris, Noe, Overstreet, Preston, Pritchett, Rapier, Reinhardt, B. Richardson, Ridley, Robinson, Siler, B. Smith, R. Smith, Strong, Todd, Turner, Walker, White, Will. Nays 29-Adams, Blevins, M. Brown, Bruce, Casebier, L. Clark, P. Clark, Cline, Gedling, Guenthner, Hancock, Handy, Hatcher, Heleringer, Lile, Lyne, Mack, Mason, Napier, Nett, Northup, O'Brien, Priddy, Richards, Riner, Scorsone, Seum, Stumbo, Yates.

The motion that **HB 695**, as amended, be laid on the Clerk's Desk was adopted.

HB 814, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved that **HB 814** be passed.

On the roll call the vote was: Yeas 85, Nays 0. (See March 17, 1988 roll call on **HB 814** - Appendix A.)

HB 814 was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 814** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 849, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Northup moved the adoption of Committee Substitute to **HB 849**. Agreed.

Representative Northup moved that **HB 849**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 81, Nays 10. (See March 17, 1988 roll call on **HB 849** - Appendix A.)

HB 849, by way of Committee Substitute, was passed and the title agreed to.

Representative Northup moved that the vote by which **HB 849**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 862 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yates moved that **HB 862** be passed.

On the roll call the vote was: Yeas 55, Nays 29. (See March 17, 1988 roll call on **HB 862** - Appendix A.)

HB 862 was passed and the title agreed to.

Representative Yates moved that the vote by which **HB 862** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 977, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Amendment No. 1 to **HB 977**. Agreed.

Representative Clarke moved that **HB 977**, as amended, be passed.

On the roll call the vote was: Yeas 80, Nays 0. (See March 17, 1988 roll call on **HB 977** - Appendix A.)

HB 977, as amended, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 977**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 410, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Amendment No. 1 to **HB 410** is as follows:

Amend printed copy of **HB 410** on page 1, line 10, by deleting "*duplicate*"; and

On page 1, line 10, after "*the*" by inserting "*amount and due date of the renewal.*"

Representative Ridley moved that the House concur in Senate Amendment No. 1 to **HB 410**. Agreed

Representative Ridley moved that **HB 410**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 83, Nays 0. (See March 17, 1988 roll call on **HB 410** - Appendix A.)

HB 410, as amended by the Senate, was passed and the title agreed to.

Representative Ridley moved that the vote by which **HB 410**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 437, with Senate Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be placed upon its passage. Agreed.

The Senate Floor Amendment No. 2 to **HB 437** is as follows:

Amend printed copy of **HB 437** on page 2, line 20, after the "(4)" by inserting the following: "*If it comes to the attention of a transferor that a transferee did not promptly submit the necessary document within* *fifteen (15) calendar days to the county clerk as required by law in order to complete the transfer transaction, a transferor shall submit to the county clerk, in his county of residence, an affidavit that he has transferred his interest in a specific vehicle and the clerk shall enter appropriate data into the AVIS system which shall restrict any registration transaction from occurring on that vehicle until the transfer has been processed. The transportation cabinet may adopt administrative regulations governing this subsection. This subsection shall not apply to any transactions involving licensed Kentucky motor vehicle dealers.*

(5)"

Representative Lear moved that the House concur in Senate Floor Amendment No. 2 to **HB 437**. Agreed

Representative Lear moved that **HB 437**, as amended by the Senate, be passed.

On the roll call the vote was: Yeas 83, Nays 1. (See March 17, 1988 roll call on **HB 437** - Appendix A.)

HB 437, as amended by the Senate, was passed and the title agreed to.

Representative Lear moved that the vote by which **HB 437**, as amended by the Senate, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 170, by Representative Stumbo: A RESOLUTION encouraging public involvement in schools.

HR 171, by Representatives Casebier and P. Clark: A RESOLUTION honoring outstanding Kentuckian Owen C. Hammons.

HR 172, by Representatives Richards and B. Smith: A RESOLUTION honoring John Oldham for his accomplishments.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **SB 329**.

Business Organizations and Professions: **SB 244**.

Health and Welfare: **SCR 82**, **SB 235**, **SB 321**.

Appropriations and Revenue: **SB 49**, **SB 300**, **HJR 121**.

The Clerk announced **SB 280** has been withdrawn from consideration by the Committee on Appropriations and Revenue.

Report of Committees

The Committee on State Government reported **HB 864** with Committee Amendment attached thereto, and **HB 989** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 864, AN ACT relating to voter assistance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.255 is amended to read as follows:

(1) The voter shall be instructed by the officers of election, with the aid of the instruction cards and the model, in the use of the machine, if the voter so requests.

(2) No voter shall be permitted to receive any assistance in voting at the polls unless he makes and signs an oath that, by reason of inability to read English, or by reason of blindness or other physical disability he is unable to vote without assistance. Upon making and filing with the judges such oath, the voter shall retire to the voting machine, with the judges, and one (1) of the judges shall then, in the presence of the other and the voter, operate the machine as the voter directs. The disabled person applying to vote may, if he prefers, be assisted by a person of his own choice who is not an election officer, except that the voter's employer, an agent of that employer, an officer or agent of that voter's union, or a candidate shall not assist the voter, nor shall a person assist more than two (2) voters on the date of any primary or regular or special election. The clerk shall swear the person accompanying the *illiterate* [~~disabled or blind~~] voter to operate the voting machine in accordance with the directions of the [~~disabled or blind~~] voter, *except that no such requirement shall be made of a person assisting a disabled or blind voter.* [~~and~~] The *illiterate* [~~disabled or blind~~] voter and the person sworn shall then enter the voting booth and the one so sworn shall operate the machine for the [~~disabled or blind~~] voter as he directs. Voting booth shall mean an area in which a voter casts his vote which is designed in such a manner that the secrecy of the vote is insured. No voter shall be assisted under this subsection unless the judges and the sheriff of election are satisfied of the truth of the facts stated in the oath. The voter shall state in his oath the specific physical disability that requires him to receive assistance, and the judges of election shall enter in writing, on a record of assisted voters, the voter's name and the specific physical disability which required him to receive assistance.

(3) No voter shall be permitted to occupy the voting machine more than two (2) minutes if other voters are waiting to use it.

(4) In primary elections, before a voter is permitted to use the voting machine, a judge of the election shall adjust the machine so that the voter will only be able to vote for the persons for whom the voter is qualified to vote.

(5) If the machine is so constructed as to require adjustment after one (1) person has voted before another person may vote, the judges of election shall so adjust it after each person has voted.

(6) The election officers shall constantly maintain a watch in order to prevent any person from voting more than once.

(7) In elections for president and vice president, if a voter is eligible to vote only for the office of president and vice president a judge of the election shall adjust the machine so that the voter will only be able to vote for president and vice president.

(8) If supplemental paper ballots have been approved, as provided in KRS 118.215, the voter shall vote his ballot in privacy in a booth provided for that purpose by the county clerk. If the voter spoils his ballot, he shall return the spoiled paper ballot to an election official who shall stamp the ballot "Spoiled," initial and place the spoiled ballot in an envelope provided for that purpose. The voter shall then be issued a second supplemental paper ballot. Upon completion of voting, the voter shall remove the numbered stub from the ballot, hand the stub to an election official and deposit the voted ballot in the locked ballot box in the presence of precinct election officials.

The Committee Amendment No. 1 to **HB 864** is as follows:

Amend printed copy of **HB 864** on page 1, line 9, by inserting the following after "*assistance.*":

"*A person, who by reason of blindness or other physical disability shall require on a permanent basis assistance in voting, may have the option of making and filing an oath with the county clerk that he is unable to vote without assistance. This information shall be permanently recorded on the voter's registration card and included* *on the voters list by the voter's name. A person may choose to make and file such oath with the judges at each election. After*"; and

On page 1, line 9, by placing brackets around and striking through "Upon"; and

On page 1, line 10, by bracketing and striking through "with the judges".

HB 989, AN ACT relating to retirement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

(1) Any employe hired on or before January 1, 1988, who is a participating member of the Kentucky employes retirement system and who has service credit in the retirement system as prescribed in KRS 61.559(2)(a), (b), (c) or (d), or any employe hired on or before January 1, 1988, who is participating in the state police retirement system and who meets the requirements of KRS 16.505(15) or (21) may receive additional service credit equal to ten percent (10%) of his actual service credit prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.

(2) The additional service credit provided in subsection (1) of this section shall be used in determining the member's monthly retirement allowance. The additional service credit shall not be used in determining the member's eligibility for medical insurance under KRS 61.702 or in determining the reduction in benefits under KRS 61.595(2).

(3) The employe shall submit a notification of retirement as prescribed in KRS 16.576(2) or 61.590(1) no earlier than July 15, 1988, and no later than September 30, 1988, except that the provisions of this section shall not apply in the case of disability or in the event the employe dies prior to filing a notification of retirement within the prescribed time period. The employe shall also notify the agency or department in which he is employed and the department of personnel of his intent to retire under the provisions of this section. The effective date of retirement under this section shall be the first of the month following termination of employment, except that the retirement date shall not be earlier than August 1, 1988, and not later than November 1, 1988. The employe may void his decision to retire under the provisions of this section if he does so in writing to retirement systems, the department of personnel and his agency or department no later than September 30, 1988.

(4) The retirement system's actuary shall determine the actuarial cost of the additional service provided in subsection (1) of this section for each employe and the cost shall be paid by the agency or department from which he terminates employment. The money paid by the agency or department shall be added to the retirement allowance account of the retirement system from which the member draws his retirement allowance and shall not be considered accumulated contributions of the member. The agency or department shall submit payment for the cost of such service upon the last day of the month in which the member terminates or in two (2) installments. If the agency or department elects to pay the cost in two (2) installments, the agency shall pay an amount equal to fifty and four hundred and eighty-one thousandths percent (50.481%) of the total cost upon the member's termination date and within ninety (90) days of that date.

(5) Any employe retiring under the provisions of this section shall forfeit the additional service provided in subsection (1) of this section if he is reemployed with an agency participating in the retirement system from which he retired within a period of time equal to the amount of additional service he received under subsection (1) of this section.

(6) The Kentucky retirement systems shall notify all employes eligible for the provisions of this section, the department of personnel and each eligible employe's agency of the provisions of this section by May 1, 1988. The Kentucky retirement systems shall conduct regional seminars between June 1 and July 31, 1988, to explain the provisions of this section and shall, upon the request of the eligible employe, provide an estimate of his benefits under this section.

(7) No discrimination is intended by this Act against any present or future employes. It is the intent of this legislation to encourage those employes nearing retirement to elect retirement as a voluntary service to the Commonwealth.

Section 2. Whereas, it is necessary to initiate the actions necessary to manage an early retirement program prior to July 15, 1988 in order to effect retirements by the target dates of this Act, an emergency is declared to exist and this Act shall take effect upon its passage and signature by the Governor.

The Committee Amendment No. 1 to **HB 989** is as follows:

Amend printed copy of **HB 989** on page 1, line 13, by adding after the period the following: "*Any employe of a parted employer hired on or before January 1, 1988 who meets the requirements of KRS 61. 559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.*"; and

On page 3, line 12, after the word "*reemployed*" by adding the following: "*earning more than the Federal Social Security Act maximum for a retired person*"; and

On page 3,line 26, by inserting after the "*(7)*" the following: "*The purpose of this Act is to bring expenditures in line with general fund revenues.*"; and

On page 4, line 4, by inserting thereafter the following: "Section 2. *The Finance and Administration Cabinet shall be granted authority to accrue savings and transfer sufficient funds between appropriation units of agencies and departments under the provisions of this Act to facilitate payments into the respective retirement systems for federally funded employes and employes of parted employers electing early retirement.*

Section 3. KRS 141.021 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 141.010, federal military retirement annuities *other than those set out in subsection (2) of this section* shall be excluded from the gross income of persons fifty (50) years of age or older, and federal retirement annuities shall be excluded from the gross income of persons receiving annuities from a federal retirement system and who are fifty (50) years of age or older, subject to the following limitations:

If Earned Income From Sources Other Than Annuities Described Above Is:	The Maximum Annuity Exclusion Is:
$3,000 or Less	$4,000
3,001 to 4,000	3,000
4,001 to 5,000	2,000
5,001 to 6,000	1,000
Over 6,000	0

(2) Notwithstanding the provisions of KRS 141.010 or the provisions of subsection (1) of this section, federal military retirement annuities shall be excluded from the gross income of persons who have retired since December 31, 1987 from the federal military when at the time of such retirement the individual was on active duty and was stationed in the Commonwealth of Kentucky."; and

on page 4, line 5, by changing "2" to "4".

Representative Handy moved that **HB 695** be taken from the Clerk's Desk and placed in Orders of the Day. Agreed.

Representative Crupper moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Crupper moved the adoption of the following **HR 169**:

HR 169, A RESOLUTION honoring Charles E. Barnhart.

WHEREAS, Dr. Charles E. Barnhart has served with distinction as the Dean of the University of Kentucky College of Agriculture for nineteen years; and

WHEREAS, the U.K. College of Agriculture has made substantial progress under the capable leadership of Dean Barnhart, such as making the services of the college readily available on the farm and improving the quality of the faculty; and

WHEREAS, Dean Barnhart's philosophy for the College of Agriculture always has been one of "people helping people;" and

WHEREAS, Dr. Barnhart is an internationally recognized authority on animal nutrition and has published more than 100 scientific and popular publications on swine and swine nutrition; and

WHEREAS, Dr. Barnhart has served faithfully the U.K. College of Agriculture and the citizens of Kentucky for forty years; and

WHEREAS, Dean Barnhart has received numerous awards for his contributions to agriculture and the livestock industry; and

WHEREAS, few people in the Commonwealth of Kentucky have had as much beneficial influence on Kentucky farm families and agriculture;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the outstanding and enduring contributions of Dr. Charles E. Barnhart to Kentucky agriculture are duly recognized and he is hereby held in high esteem.

Section 2. That when the House of Representatives adjourns, Thursday, March 17, 1988, it does so in honor of Dr. Charles E. Barnhart, Dean, University of Kentucky College of Agriculture.

Section 3. That copies of this resolution be sent to Dean Barnhart and to David Roselle, President, University of Kentucky.

HR 169 was adopted by voice vote.

Representative Crupper moved that a call of the roll be taken to show co-sponsors of **HR 169**. Agreed.

The following members requested that their names be added as Co-Sponsors of **HR 169**: Adams, Adkins, Altman, Ark, Arnold, Ballard, Blandford, Blevins, Bronger, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Donnermeyer, Farrow, Ford, Freibert, Gedling, Geveden, Gray, Gregory, Guenthner, Handy, J. Harper, K. Harper, Hatcher, Heleringer, Hoover, Hourigan, Jackson, Johnson, A. Jones, R. Jones, Kerr, Layman, Lear, LeMaster, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Noland, Northup, O'Brien, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, P. Richardson, Ridley, Riner, Scorsone, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, White, Yates.

Representative Gray moved that **HB 730** be taken from the table.

On the roll call the vote was yeas 40-Adkins, Arnold, Ballard, Blevins, Bruce, Burch, Callahan, L. Clark, P. Clark, Clarke, Cline, Cyrus, Gedling, Geveden, Gray, Handy, Hatcher, Hourigan, Jackson, A. Jones, Kerr, Lear, Long, Lundergan, Lyne, Mack, Mason, McBee, McElroy, Meyer, Moberly, Noe, Northup, Pritchett, Reinhardt, Scorsone, Strong, White, Will, Yates. Nays 12-Ark, Bronger, J. Brown, M. Brown, Castleman, Curd, Ford, Freibert, J. Harper, Heleringer, Hoover, Seum.

The motion that **HB 730** be taken from the table was rejected.

Representative Rapier moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Rapier moved the adoption of the following **HR 98**:

HR 98, A RESOLUTION recognizing the United States Constitution Bicentennial Commission of Kentucky.

WHEREAS, the Bicentennial of the signing of the U.S. Constitution was commemorated in 1987; and

WHEREAS, the United States Constitution Bicentennial Commission of Kentucky received an award from the Council for the Advancement of Citizenship and the Center for Civic Education for its outstanding contribution to the Bicentennial; and

WHEREAS, the remaining four years of the Bicentennial offers a unique opportunity to recognize the important issues surrounding the ratification of the United States Constitution and the Bill of Rights; and

WHEREAS, forty communities in the Commonwealth have received the designation of Kentucky Designated Bicentennial Communities, and

WHEREAS, the United States Constitution Bicentennial Commission of Kentucky has representation from the executive, legislative and judicial branches; and

WHEREAS, it is the responsibility of the Kentucky Commission to establish a statewide network of individuals, agencies, and organizations to celebrate the Bicentennial of the United States Constitution; and

WHEREAS, this effort will include many projects and touch many citizens over the period of the next few years through 1991; and

WHEREAS, education about the importance of the Constitution and the Bill of Rights is the primary focus of the Commission;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the United States Constitution Bicentennial Commission of Kentucky be recognized and commended for its accomplishments and for the task it is undertaking.

Section 2. That the citizens of the Commonwealth are encouraged to help the Commission in recognizing the importance of such a distinguished governmental cornerstone as the United States Constitution and the Bill of Rights.

Section 3. That the Kentucky Commission is hereby recognized as the official coordinating body of activities surrounding the Bicentennial of the United States Constitution and the Bill of Rights through 1991 in Kentucky.

Section 4. That a copy of this resolution be transmitted to Dr. John Brock, State Superintendent of Public Instruction and Honorary State Chairperson and to Ms. Betty H. Seay, Executive Director of the Commission.

HR 98 was adopted by voice vote.

Representative Napier moved that **HB 414** be withdrawn. Agreed.

The Speaker announced that Representative Napier's motion to withdraw **HB 414** was out of order since the Bill was no longer in possession of the House. The Senate has received **HB 414**.

Representative Cline moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Cline moved that all properly filed co-sponsor requests be approved. Agreed.

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions:

HB 249, Representative Mason; **HB 381**, Representatives Ackerson, Northup, Riner; **HB 382**, Representative Riner; **HB 383**, Representative Riner; **HB 584**, Representative P. Clark; **HB 688**, Representative Casebier; **HB 919**, Representatives P. Clark, Seum.

The following members filed requests to have their names withdrawn as co-sponsors of Bills and Resolutions:

HB 343, Representative Reinhardt; **HB 414**, Representatives Adkins, Ford, Hoover, Lile, Noland, Seum, Reinhardt, Todd; **HB 481**, Representative Seum; **HB 740**, Representative Ridley; **HB 921**, Representative B. Smith.

Representative Gregory moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gregory moved that he be recorded as voting "yea" on **HB 764**. Agreed.

Representative Robinson moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Robinson moved that he be recorded as voting "nay" on **HB 908**. Agreed.

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 1 to Committee Substitute to **HB 371**, by Representative Barrows:

Amend printed copy of HCS to **HB 371** on page 11, line 14, by inserting "*and*" after the semicolon; and

on page 11, line 16, by deleting "*; and*" and by substituting therefor "."; and

on page 11, by deleting lines 17 and 18; and

on page 12, line 10, by deleting "*forty-five hundredths percent (2.45%)*" and by substituting therefor "*forty-one hundredths percent (2.41%)*"; and

on page 12, line 13, by deleting the word "*or*"; and

on page 12, line 14, by deleting "*Kentucky employes retirement system*"; and

on page 12, line 19, by inserting after "credit." the following:

"*Effective August 1, 1988 a member of the Kentucky employes retirement system covered by this section may elect to receive an annual retirement allowance, payable monthly during his lifetime, equal to two and forty-nine hundredths percent (2.49%) of final compensation for each year of service credit.*"; and

on page 32, line 26, by inserting after the word "Effective" the words "*August 1, 1988*" and by bracketing and striking through the words "July 15, 1986"; and on page 36, line 20, by inserting after "1," the following "*1988*" and by bracketing and striking through "1986"; and

on page 56, line 19, by deleting the word "*exclusively*"; and

on page 61, lines 8 and 9, by deleting all brackets and strike throughs;and

on page 62, line 8, by deleting the brackets and strike throughs on the word "and"; and

on page 62, line 9, by deleting all new language; and

on page 62, by deleting lines 10 through 13; and

on page 62, line 14, by deleting "*(f)*"; and

on page 66, line 20, by deleting all new language on line 20; and

on page 66, by deleting lines 21 and 22; and

on page 66, line 23, by deleting new language and by deleting all brackets and strike throughs; and

on page 66, line 24, by deleting brackets and strike throughs; and

on page 68, line 4, by bracketing and striking through "July 1" and by substituting therefor "*August 1*"; and

On page 68, line 14, by inserting after the word "*year*" the following: "*, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986 to August 1, 1990. Each year thereafter the next year shall be added and the first year shall be dropped from the five (5) year averaging period*"; and

on page 81, lines 7 and 8, by deleting the brackets and strike throughs; and

on page 85, line 7, by inserting "*and*" after the semicolon; and

on page 85, line 9, by deleting "*; and*" and by substituting therefor "."; and

on page 85, by deleting lines 10 and 11; and

on page 95, line 16, by deleting "*nine-tenths*" and by substituting therefor "*ninty-one hundredths percent (1.91%)*"; and

on page 95, line 17, by deleting "*(1.9%)*"; and

on page 98, beginning on line 14 and continuing to page 105 by deleting Section 44. of the bill; and

on page 98, line 13, by adding thereafter "Section 44. KRS 61. 661 is amended to read as follows:

Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member, however, the board may release member account information to the employer or to other state and federal agencies as it deems necessary *or in response to a lawful subpoena or order issued by a court of law. The member's account shall be exempt from the provisions of KRS 171.410 to 171.990.*".

Floor Amendment No. 6 to Committee Substitute to **HB 516**, by Representative Farrow:

Amend printed copy of Committee Substitute to **HB 516** on page 43, line 26, by deleting the amount

"$233,591,500" and inserting in lieu thereof the amount "$233,842,100";

Page 44, line 1, by deleting the amount "$248,733,900" and inserting in lieu thereof the amount "$248,995,500";

Page 45, line 24, by deleting the amount "$555,118,200" and inserting in lieu thereof the amount "$555,368,800";

Page 45, line 25, by deleting the amount "$581,564,200" and inserting in lieu thereof the amount "$581,826,000";

Page 61, line 22, by deleting the amount "$3,180,205,800" and inserting in lieu thereof the amount "$3,180,456,400";

Page 61, line 23, by deleting the amount "$3,331,374,000" and inserting in lieu thereof the amount "$3,331,635,600";

Floor Amendment No. 7 to Committee Substitute to **HB 516**, by Representative Farrow:

Amend printed copy of Committee Substitute to **HB 516** on page 38, line 25, by deleting "$1,582,800 and inserting in lieu thereof "$6,586,000";

line 26, by deleting "$1,635,100 and inserting in lieu thereof "$6,801,900";

On page 39, line 13, by deleting "$2,616,600" and inserting in lieu thereof "$7,619,800";

line 14, by deleting "$2,611,000 and inserting in lieu thereof "$7,777,800";

On page 40, line 18, by deleting "$7,212,500" and inserting in lieu thereof "$5,212,500";

On page 43, line 26, by deleting "$233,591,500 and inserting in lieu thereof "$231,591,500";

On page 44, line 1, by deleting "$248,733,900 and inserting in lieu thereof "$244,733,900";

On page 45, line 24, by deleting "$555,118,200" and inserting in lieu thereof "$551,118,200";

line 25, by deleting "$581,564,400" and inserting in lieu thereof "$577,564,400".

On page 73, line 15, by deleting "$546,000 and inserting in lieu thereof "$591,000";

line 16, by deleting "$540,600 and inserting in lieu thereof "$586,900";

Floor Amendment No. 8 to Committee Substitute to **HB 516**, by Representative K. Harper:

Amend printed copy of Committee Substitute to **HB 516** on page 167, line 24, after the period "(.)", by adding the following sentence: "In no event however, shall the funds in the deferred compensation account be used to balance the budget."

Floor Amendment No. 9 to Committee Substitute to **HB 516**, by Representative J. Harper:

Amend printed copy of Committee Substitute to **HB 516**, on page 167, after line 24, by adding the following language:

"PART X

Notwithstanding the provisions of KRS 141.010(3), for purposes of the taxes levied under the provisions of KRS Chapter 141, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1987, exclusive of any amendments made subsequent to that date and as modified by KRS 141.0101. The provisions of this part shall be effective for taxable years beginning after December 31, 1987." The provisions of this part shall be effective for taxable years beginning after December 31, 1987.

It is the intent of the General Assembly that conformity to the Internal Revenue Code in effect on December 31, 1987 be revenue neutral in that the Revenue Cabinet is hereby directed to reduce the current tax rates to make the provisions of this part revenue neutral upon all taxpayers within each applicable tax rate bracket for taxable years beginning after December 31, 1987.

Floor Amendment No. 10 to Committee Substitute to **HB 516**, by Representative Reinhardt:

Amend printed copy of Committee Substitute to **HB 516** on page 165, lines 1 through 8, by deleting lines 1 through 8 in their entirety.

And renumbering remaining provisions to conform.

Floor Amendment No. 11 to Committee Substitute to **HB 516**, by Representative Reinhardt:

Amend printed copy of Committee Substitute to **HB 516** on page 43, line 26, by deleting the amount "$233,591,500" and inserting in lieu thereof the amount "$234,891,500

Page 44, line 1, by deleting the amount "$248,733,900" and inserting in lieu thereof the amount "$250,091,100";

Page 45, line 24, by deleting the amount "$555,118,200" and inserting in lieu thereof the amount "$556,418,200";

Page 45, line 25, by deleting the amount "581,564,200" and

inserting in lieu thereof the amount "582,921,400";

Page 61, line 22, by deleting the amount "$3,180,205,800" and inserting in lieu thereof the amount "$3,181,505,800

Page 61, line 23, by deleting the amount "$3,331,374,000" and inserting in lieu thereof the amount "$3,332,731,200

Floor Amendment No. 12 to Committee Substitute to **HB 516**, by Representative Siler:

Amend printed copy of Committee Substitute to **HB 516** on page 21, line 18, by deleting the amount "$9,447,300" and inserting in lieu thereof the amount "$9,634,800";

Page 21, line 19, by deleting the amount "$9,926,700" and inserting in lieu thereof the amount "$20,914,200";

Page 22, before line 2, by inserting the following language: "Included in the above appropriations is $187,500 in FY 1988-89 and $10,987,500 in FY 1989-90 for the Aid to Disadvantage School Districts Program.

Page 22, line 5, by deleting the amount "$84,795,600" and inserting in lieu thereof the amount "$84,432,200";

Page 23, line 8, by deleting the amount "$1,118,436,700" and inserting in lieu thereof the amount "$1,108,673,900";

Page 32, line 26, by deleting the amount "$33,752,800" and inserting in lieu thereof the amount "$33,665,300";

Page 33, line 1, by deleting the amount "$34,327,200" and inserting in lieu thereof the amount "$34,239,700";

Page 36, line 20, by deleting the amount "$138,694,700" and inserting in lieu thereof the amount "$138,020,900";

On page 163, line 15 through 17, by deleting lines 15 through 17 in their entirety.

Adjust related unit totals to conform.

Floor Amendment No. 13 to Committee Substitute to **HB 516**, by Representative Allen:

Amend printed copy of HCS to **HB 516** on page 57, line 18, delete "288,000" and insert "330,000".

On page 57, line 19, delete "295,900" and insert "345,900"

On page 57, line 20, insert the following, "Included in the above appropriation is $50,000 each year of the biennium for two additional auditors at the Kentucky Registry of Election Finance."

Floor Amendment No. 14 to Committee Substitute to **HB 516**, by Representative Allen:

Amend printed copy of HCS to **HB 516** on page 36, line 19, delete "138,614,200" and insert "142,414,200".

On page 36, line 20, delete "138,694,700" and insert "142,494,700".

On page 37, line 3, after "members." insert "Also included in the above appropriation is $3,800,000 each year of the biennium for a two percent cost of living increase for retired teachers."

Floor Amendment No. 15 to Committee Substitute to **HB 516**, by Representative Allen:

Amend printed copy of HCS to **HB 516** on page 22, line 2, prior to "b. Local District Health and Life Insurance" insert the following :

"b. Aid to Disadvantaged School Districts

1988-89	$ 5,000,000
1989-90	$ 8,000,000

It is the intent of the General Assembly that grants under the Aid to Disadvantaged School Districts Program will be proposed by the Superintendent of Public Instruction and approved by the Governor of the Commonwealth."

Renumber sections as appropriate.

Floor Amendment No. 16 to Committee Substitute to **HB 516**, by Representative Moberly:

Amend printed copy of HCS to **HB 516** on page 31, line 15, after the word "school" by inserting the following language:

"The figures incorporate a reduction of $995,000 in each fiscal years in costs related to desegregation and do not reflect a ratable reduction in transportation allotments to local school districts statewide."

Floor Amendment No. 17 to Committee Substitute to **HB 516**, by Representative Reinhardt:

Amend printed copy of HCS to **HB 516** on page 18, line 10, by deleting the following: "acquisition and";

Page 18, line 11, after the words "conversion of", delete the following word "a", and inserting in lieu thereof the words "any existing institutional";

Page 18, line 11, delete the word "facility", and insert in lieu thereof the words "facilities under the jurisdiction of the Corrections Cabinet".

Floor Amendment No. 18 to Committee Substitute to **HB 516**, by Representative J. Harper:

Amend printed copy of HCS to **HB 516** on page 167, after line 24, by adding the following language:

"PART X

Notwithstanding the provisions of KRS 141.010(3), for purposes of the taxes levied under the provisions of KRS Chapter 141, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1987, exlusive of any amendments made subsequent to that date and as modified by KRS 141.0101. The provisions of this part shall be effective for taxable years beginning after December 31, 1987." The provisions of this part shall be effective for taxable years beginning after December 31, 1987.

It is the intent of the General Assembly that conformity to the Internal Revenue Code in effect on December 31, 1987 be revenue neutral in that the Revenue Cabinet is hereby directed to reduce the current tax rates to make the provisions of this part revenue neutral upon all taxpayers within each applicable tax rate bracket for taxable years beginning after December 31, 1987.

Floor Amendment No. 19 to Committee Substitute to **HB 516**, by Representative Guenthner:

Amend printed copy of HCS to **HB 516** on page 167, after line 24, by adding the following language:

"PART X

Notwithstanding the provisions of KRS 141.010(3), for purposes of the taxes levied under the provisions of KRS Chapter 141, "Internal Revenue Code" means the Internal Revenue Code in effect on December 31, 1987, exlusive of any amendments made subsequent to that date and as modified by KRS 141.0101. The provisions of this part shall be effective for taxable years beginning after December 31, 1987." The provisions of this part shall be effective for taxable years beginning after December 31, 1987.

It is the intent of the General Assembly that conformity to the Internal Revenue Code in effect on December 31, 1987 be revenue neutral in that the Revenue Cabinet is hereby directed to reduce the current tax rates to make the provisions of this part revenue neutral upon all taxpayers within each applicable tax rate bracket for taxable years beginning after December 31, 1987.

Floor Amendment No. 20 to Committee Substitute to **HB 516**, by Representative Guenthner:

Amend printed copy of HCS to **HB 516** on page 164, after line 3, by adding the following:

"15.(a) There is appropriated out of the General Fund the following sums for the following purposes:

(1) Council on Higher Education

FY 1988-89	$ 64,006,700
FY 1989-90	$114,683,100

The above appropriations shall be allotted to the state universities in accordance with the formula use policy.

(2) Teachers Retirement System

FY 1988-89	$ 21,308,600

FY 1989-90	$ 15,969,000

The above appropriations shall be applied pursuant to KRS 161.550.

(3) School Foundation Program

FY 1988-89	$ 21,401,200
FY 1989-90	$ 23,822,100

The salary unit allotment shall be increased three percent in fiscal year 1988-89 in addition to the provisions of Part I.

(4) Department of State Police

FY 1988-89	$ 35,000,000
FY 1989-90	$ 35,000,000

(b) The Road Fund appropriation of $35,000,000 in fiscal year 1988-89 and $35,000,000 in fiscal year 1989-90 provided in Part IV is hereby transferred and reappropriated to the Department of Highways for state highway construction and maintenance.

(c) The Secretary of Finance and Administration is directed to reduce General Fund allotments for administrative and operating expenses in each budget unit by the figure of 2.5% in fiscal year 1988-89 and in fiscal year 1989-90."

Floor Amendment No. 21 to **HB 516**, by Representative Freibert:

Amend printed copy of **HB 516** on page 167, after line 5, by inserting "1. Transfer of excess or unbudgeted agency operating funds, excluding fiduciary funds or dedicated statutory funds."; and

On line 6, by changing "1." to "2."; and

On line 9, by changing "2." to "3."; and

On line 12, by changing "3." to "4."; and

On line 14, by changing "4." to "5."; and

On line 17, by deleting lines 17, 18 and 19 entirely.

Floor Amendment No. 22 to **HB 516**, by Representative Freibert:

Amend printed copy of **HB 516** on page 63, line 9, after "Cabinet;" by inserting "and such funds must be utilized in lieu of General Fund Allotments. Prior to year end closing the State Budget Director of the Governor's Office for Policy and Management shall instruct the Secretary of the Finance and Administration Cabinet to adjust Trust and Agency Fund Accounts and General Fund Accounts to reflect the use of Trust and Agency Funds prior to the use of General Funds;"

Floor Amendment No. 23 to **HB 516**, by Representative Freibert:

Amend printed copy of **HB 516** on page 64, after line 7, by inserting the following:

"At the close of each quarter and at the close of each fiscal year the Secretary of the Finance and Administration Cabinet shall file with the Legislative Research Commission a report by budget unit, comparing trust and agency fund receipts and expenditures as estimated and appropriated by the 1988 General Assembly to actual trust and agency fund receipts and expenditures."

Floor Amendment No. 24 to Committee Substitute to **HB 516**, by Representative Freibert:

Amend printed copy of HCS to **HB 516** on page 32, line 26, by deleting the amount "$33,752,800" and inserting in lieu thereof the amount "$33,665,300";

Page 33, line 1, by deleting the amount "$34,327,200" and inserting in lieu thereof the amount "$34,239,700";

Page 35, line 6, by deleting the amount "$1,382,650,900" and inserting in lieu thereof the amount "$1,382,563,400";

Page 35, line 7, by deleting the amount "$1,457,633,000" and inserting in lieu thereof the amount "$1,457,545,500";

Page 38, line 17, by deleting the amount "$1,577,838,100" and inserting in lieu thereof the amount "$1,572,750,600";

Page 38,, line 18, by deleting the amount "$1,655,324,900" and inserting in lieu thereof the amount "$1,655,237,400";

Page 52, line 12, by deleting the amount "$28,607,100" and inserting in lieu thereof the amount "$28,686,600";

Page 52, line 13, by deleting the amount "$30,001,400" and inserting in lieu thereof the amount "$30,069,500";

Page 53, line 15, by deleting the amount "$30,221,200" and inserting in lieu thereof the amount "$30,300,700";

Page 53, line 16, by deleting the amount "$31,666,800" and inserting in lieu thereof the amount "$31,735,300";

Page 57, line 18, by deleting the amount "$288,000" and inserting in lieu thereof the amount "$396,000";

Page 57, line 19, by deleting the amount "$295,900" and inserting in lieu thereof the amount "$414,900";

Page 57, line 21, by deleting the amount "$25,843,100" and inserting in lieu thereof the amount "$25,951,100";

Page 57, line 22, by deleting the amount "$26,729,600" and inserting in lieu thereof the amount "$26,848,600";

Page 61, line 22, by deleting the amount "$3,180,205,800" and inserting in lieu thereof the amount "$3,180,393,300";

Page 61, line 23, by deleting the amount "$3,331,374,000" and inserting in lieu thereof the amount "$3,331,561,500";

On page 163, lines 15, 16 and 17, by deleting lines 15, 16 and 17 in their entirety.

Floor Title Amendment No. 1 to Committee Substitute to **HB 516**, by Representative Guenthner:

Amend printed copy of HCS to **HB 516**, title, by adding after the word "activities" the following: "and raising revenues therefor"

Floor Title Amendment No. 2 to Committee Substitute to **HB 516**, by Representative J. Harper:

Amend printed copy of HCS to **HB 516**, title, by adding after the word "activities" the following: "and raising revenues therefor"

Floor Amendment No. 1 to **HB 730**, by Representative Blevins:

Amend printed copy of **HB 730** on page 3, line 14, by inserting the following new section:

"Section 3. The provisions of this Act shall not apply to any county containing a city of the first class and to any county containing an urban county government."

Floor Amendment No. 2 to **HB 730**, by Representative Blevins:

Amend printed copy of **HB 730** on page 3, line 14, by inserting the following new section:

"Section 3. The provisions of this Act shall apply only to congressional districts 1, 5 and 7."

Floor Amendment No. 1 to **HB 748**, by Representative Napier:

Amend printed copy of **HB 748** on page 2, after line 15, insert the following:

"Section 2. KRS 29A.090 is amended to read as follows:

(1) Any prospective juror, age sixty-five (65) or older, as of the date summoned to report for jury service, may, at the option of such prospective juror, decline jury service by giving written notice to the court of such intention on or before the date that the prospective juror has been summoned to report for jury service. The written notice shall include the date of birth of the prospective juror.

(2) Except as provided in subsection (1) of this section, there shall be no automatic exemptions from jury service."

Floor Title Amendment to **HB 748**, by Representative Napier:

Amend printed copy of **HB 748**, title, on page 1, to amend the title to read as follows: "AN ACT relating to governmental positions."

Floor Amendment No. 3 to **HB 875**, by Representative Crupper:

Amend printed copy of **HB 875** on page 3, line 20, delete "*after referral to*"; and

On page 3, line 21, delete the brackets and strikethroughs from "with the recommendation of"; and

On page 8, line 22, delete "*ten (10)*" and replace with "*eleven (11)*"; and

On page 8, line 25, place a bracket "[" before "At all" and strikethrough;

On page 8, line 26, strikethrough in its entirety; and

On page 9, strikethrough lines 1 through 3 and place a bracket "]" after the period; and

On page 9, line 4, after "(3)" add the following sentence: "*All appointments made in 1988 resulting from an increase in membership from seven (7) to eleven (11) shall be staggered so that no more than three (3) vacancies occur in any one year.*"; and

On page 9, line 16, add a new sentence which reads as follows:

"*In making appointments to the commission, the governor shall maintain a balance of representation on the commission between: (a) Representation by the environmental community and the public-at-large; and*

(b) Representation by production agriculture, mining, manufacturing, and other business interests affected by

regulations of the cabinet."; and

On page 10, line 10, delete "*meet*" and remove the bracket and strikethroughs from "hold regular"; and

On page 10, line 11, remove the brackets and strikethroughs from "meetings at least" and "in"; and

On page 10, line 14, delete "*four (4)*" and replace it with "*five (5)*"; and

On page 10, after line 21, add a new paragraph (10) as follows: "*10) Any member who misses three (3) consecutive meetings of the commission shall have his membership reviewed by the governor.*"; and

On page 10, delete lines 23 through 26; and

On page 11, delete lines 1 through 6 through "*industry*"; and

On page 11, line 8, place a bracket "]" after "~~commission~~" and insert "*At all times, the majority of the members appointed to the commission shall not be a person*"; and

On page 11, line 8, remove the strikethroughs from "who holds a permit for any purpose";

On page 11, lines 9 through 16, remove the strikethroughs and the bracket; and

On page 11, delete lines 17 through 24; and

On page 12, line 9, delete "*and*" and remove the bracket and strikethroughs; and

On page 12, line 10, by deleting the bracket and removing the strikethrough of the word "recommendations"; and

On page 12, line 11, by deleting after the word "environment" the following: "*with regard to the following*" and by removing the bracket before and the strikethrough of the "." and by inserting the following: "*In addition, the commission may act as a forum for those purposes on matters set forth in subsections (5) and (6) on approval by a majority of commission members present.*"; and

On page 12, lines 12, 13, and 14, by removing the strikethroughs and bracket; and

On page 12, line 23, by inserting after the word "exemptions" the following: "*but this shall not authorize the consideration or review of specific permits or enforcement actions*"; and

On page 12, line 24, delete the brackets and strikethroughs; and

On page 13, line 2, delete "*;*" and delete the bracket and strikethrough; and

On page 13, lines 3 through 6, remove the strikethroughs and the bracket; and

On page 13, line 7, delete "*d*" and delete the brackets and strikethroughs; and

On page 13, line 11, delete the "*e*" and delete the brackets and strikethroughs.

On page 13, before line 16, by adding a new subsection (7) as follows: "*(7) The commission is prohibited from commenting on individual permits, enforcement actions and variances unless specified by statute*"; and

On line 16, by changing "*(5)*" to "*(8)*"; and

On line 17, by deleting "*a*"; and

On line 18, by deleting “*summary of all views expressed to it*” and inserting in place of these words, the following: “*recommendations including a summary of majority and minority opinions*”

Floor Amendment No. 2 to Committee Substitute to **HB 917**, by Representative Little:

Amend printed copy of HCS to **HB 917** by deleting Committee Substitute for House Bill 917 in its entirety and inserting in lieu thereof the following:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) On and after January 1, 1989, any person owning and engaged in the business of extracting or leasing mineral resources shall, as of January 1 each year, and by February 1, report to the revenue cabinet information relating to the value or production of mineral resources from its property. The revenue cabinet shall provide standard forms for reporting mineral production and other information that bears on the value of mineral properties. Producers shall complete and file annually the appropriate forms for each of their properties.

(2) On and after January 1, 1989, the revenue cabinet shall determine the fair cash value of all mineral resources using all applicable standard valuation methods and taking into account all factors that influence value. In determining fair cash value, the Revenue Cabinet shall consider the findings and conclusions of the Kentucky Geological Survey regarding geological information about the mineral resources, and the commercial value, or lack thereof, of those mineral resources. In determining the assessed value of mineral resources, if appropriate to the particular mineral being assessed, the Revenue Cabinet shall consider whether the mineral resources is “active mining property,” “active reserves,” “inactive reserves,” “unmined property” or “commercially unminable property”, as those terms are defined in KRS 132.010. In determining the assessed value of non-hydrocarbon mineral resources the Revenue Cabinet shall consider whether or not there is currently active mining or quarrying operation in the vicinity of the non-hydrocarbon mineral resources being assessed.

(3) When the valuation has been finally determined, the cabinet shall certify the valuation to the property valuation administrator who shall place the valuation upon the county assessment rolls and give notice to the property owner as provided in KRS 132.450.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

If any tract of mineral resources valued as barren, unminable, or commercially unminable property is prepared for extraction, that tract of mineral resources shall be subject to reevaluation based on the current fair cash value of the tract; and the owner shall be liable for taxes based on the fair cash value for the two (2) years immediately preceding the year of reevaluation but shall not be liable for deferred taxes for any year prior to the effective date of this Act. Active mining property which becomes barren and unminable upon extraction of mineral resources shall be valued at its lower value by January 1 following the year in which the mineral resources were extracted. “Prepared for extraction: as used in this section means property for which a permit application has been submitted to but for which a permit has not been issued by the Natural Resources and Environmental Protection Cabinet pursuant to KRS Chapter 350.

SECTION 3. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Beginning January 1, 1989, and each January 1 thereafter, the county clerk shall provide a list of all transfers of mineral resources for the prior year to the revenue cabinet by February 1 each year which shall include references to deed books and page numbers where the record of the transaction may be found.

Section 4. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) “Cabinet” means the revenue cabinet.

(2) “Taxpayer” means any person, *natural or legal*, made liable by law to file a return or pay a tax.

(3) “Real property” includes all lands, *and mineral resources* within this state and improvements thereon.

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent per one hundred dollars of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction, however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; [~~and~~]

(i) The value of improvements to real property previously under assessment moratorium*; and* *(j) The value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls.*

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government, where such activities produced an average annual gross income including payments under a state or federal program according to the following scale:

Acres	Annual Gross Income	Income Per Acre
10 to 30	$1,000	$60.00 per acre, or a fraction thereof, over 10 acres.
30 to 60	$2,200	$40.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$3,400	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$4,400	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$5,900	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there must be an annual gross income of these amounts within two (2) years of purchase. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(10) "Horticultural land" means any tract of land, including all income-producing improvements but excluding all residences, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers or ornamental plants, where such activities produced an average annual gross income according to the following scale:

Acres	Annual Gross Income	Income Per Acre
5 to 30	$1,000 minimum, or	$100.00 per acre, or a fraction thereof, over 5 acres, or whichever amount is greater.
30 to 60	$3,000	$50.00 per acre, or a fraction thereof, over 30 acres.
60 to 100	$4,500	$25.00 per acre, or a fraction thereof, over 60 acres.
100 to 250	$5,500	$10.00 per acre, or a fraction thereof, over 100 acres.
Over 250	$7,000	$5.00 per acre, or a fraction thereof, over 250 acres.

The above annual gross income amounts must be achieved in three (3) out of the five (5) years preceding the tax year or there is evidence of anticipated annual gross income of these amounts. Land devoted exclusively to the growing of merchantable timber or nonincome-producing woodland is excluded from the gross income provisions.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farm land purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(18) "Mineral resources" mean all forms of minerals which have not yet been mined or removed from the earth for which there exists a method of extraction in common usage in the particular industry and a commercial use for which the mined or removed mineral could be devoted under available technologies, but excluding oil, natural gas, natural gas liquids, and limestone.

(19) "Active mining property" means mineral resources on a parcel or tract of land actively being mined, or for which a permit to mine has been obtained from the Kentucky natural resources and environmental protection cabinet pursuant to KRS Chapter 350. The existence of a permit issued by the Kentucky Natural Resources and Environmental Protection Cabinet pursuant to KRS Chapter 224 shall not be conclusive proof that the entire area so permitted is "active mining property". Each permittee permitted under KRS Chapter 224 shall submit to the Revenue Cabinet a map of the area it intends to mine within the next two (2) years, considering the most recent year's rate of production on active mining property.

(20) "Active reserves" means those mineral resources in excess of active mining property, under common ownership, lease or control with active mining property, containing a seam which is the same as or substantially similar to that being mined in that active mining property, and which represents an acreage containing mineral resources which could be economically mined within five (5) years using the most recent year's rate of production on active mining property.

(21) "Inactive reserves" means those seams of mineral resources which are not classifiable as either "active mining property", "active reserves," "barren property," "unminable property," or "commercially unminable property."

(22) "Barren property" means those seams of mineral resources not being actively mined which have been depleted by prior mining operations.

(23) "Unminable properties" means those seams of mineral resources which underlie surface property used for parks, residential, commercial or industrial purposes, and not being actively mined, or from which mining is prohibited by law. It shall additionally mean those seams of mineral resources which underlie surface tracts being devoted to agricultural or horticultural purposes, as defined in subsections (9) and (10) of this section, by the owner of the surface tracts if the mineral resources have not been severed from the surface estate by deed or conveyance and are not otherwise classifiable as "active reserves" or "inactive reserves", so long as the mineral resources are neither being mined nor prepared for mining.

(24) "Commercially unminable" property means those seams of mineral resources for which the cost of mining or removing the mineral from the earth, by the most efficient method of extraction in common usage within the particular industry for such seam is greater than the average selling price of such mineral resource after extraction on the open market.

Section 5. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents (31-1/2) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents (25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value of unmanufactured agricultural products,

one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents (15) upon machinery of individuals or corporations actually engaged in manufacturing, fifteen cents (15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents (15) upon property which has been certified as a pollution control facility as defined in KRS 224.850, one-tenth of one cent ($.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents (25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents (45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.270, 136.300, 136.320 and other sections providing a different tax rate for particular property.

(2) An annual ad valorem tax for state purposes of one and one-half cents (1-1/2) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when such intangible personal properties have not acquired a taxable situs without this state:

(a) Accounts receivable, notes, bonds, credits, nondomestic bank deposits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;

(b) Patents, trademarks, copyrights and licensing or royalty agreements, relating thereto; and

(c) Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable and all other intercompany intangible personal property due from such company.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school or other taxing district on such intangible properties, or directly or indirectly against the owner with respect thereto.

(5) [~~Unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests shall be taxed at the rate of one-tenth of one cent ($.001) per one hundred dollars ($100) of assessed value.~~

~~(6)~~] Thirty cents (30) of the thirty-one and one-half cents (31-1/2) state tax rate on real property and thirty cents (30) of the forty-five cents (45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents (30), as certified by the department of education, the direct payments shall be reduced proportionately.

(6)[~~(7)~~] The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property, *exclusive of the value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls,* to the extent that such increase exceeds the preceding year's assessment by more than four percent (4%). In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7)[~~(8)~~] By July 1 each year, the revenue cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of KRS 132.020(6) and certify the rate to the county clerks for their use in preparing the tax bills. In the event the assessments for all counties have

not been certified by July 1, the cabinet shall, when real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been certified, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8)[~~(9)~~] In the event that the tax rate set by the cabinet as provided in subsection *(7)* [~~(8)~~] of this section produces more than a four percent (4%) increase in real property tax revenues, *exclusive of revenue from the value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls,* the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase, *exclusive of revenue from the value of mineral resources added to the tax rolls for the year in which such value is added to the tax rolls,* shall not exceed four percent (4%) per year.

(9)[~~(10)~~] An ad valorem tax for state purposes on distilled spirits shall be levied according to the following rate schedule:

Calendar Year	Rate per $100 of Assessed Value
1982	$.225
1983	$.1125
1984 and after	$.001

(10)[~~(11)~~] Effective on or after January 1, 1986, an ad valorem tax for state purposes of one-tenth of one cent ($.001) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business and raw materials and in-process materials held for incorporation in finished goods held for sale in the regular course of business.

(11)[~~(12)~~] An ad valorem tax for state purposes of one tenth of one-cent ($0.001) per one hundred dollars ($100) of assessed value shall be paid on all motor vehicles registered pursuant to the provisions of KRS 186.050(6).

Section 6. KRS 132.200 is amended to read as follows:

All property subject to taxation for state purposes shall also be subject to taxation in the county, city, school or other taxing district in which it has a taxable situs, except the classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be subject to taxation for state purposes only:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery and products in course of manufacture, of individuals or corporations actually engaged in manufacturing, and their raw material actually on hand at their plant for the purpose of manufacture. Individuals or corporations actually engaged in the printing, publication and distribution of a newspaper or operating a job printing plant shall be deemed to be actually engaged in manufacturing;

(5) Commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products (except that the same shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof), and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents (1-1/2) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents (4-1/2) on each one hundred dollars

($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts and other credits, whether secured by mortgage, pledge or otherwise, or unsecured, and shares of stock, except that nothing in this section shall forbid local taxation of franchises of corporations or of the shares of banks, trust companies or combined banks and trust companies doing business in this state, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.850;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) [~~On and after January 1, 1977, unmined coal and any interest therein, in whatever form held, including, but not limited to, leasehold and royalty interests;~~

~~(12)~~] On and after January 1, *1989* [~~1977~~], the assessed value of *all interests in mineral resources, as defined in KRS 132.010,* [~~unmined coal~~] shall be included in the formula contained in KRS 132.590*(7)*[~~(2)~~] in determining the amount of county appropriation to the office of the property valuation administrator;

(12)[~~(13)~~] Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13)[~~(14)~~] Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.450 based on the vehicle's fair market value at the time of sale;

(14)[~~(15)~~] Motor vehicles registered pursuant to the provisions of KRS 186.050(6); and

(15)[~~(16)~~] Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390.

Section 7. KRS 132.230 is amended to read as follows:

(1) Every person listing his property with the property valuation administrator shall state:

(a) Each separate tract of land, *any interest in mineral resources, oil, natural gas or natural gas liquids* with the number of acres in each tract; the value per acre; each of the improvements thereon; the name of the nearest resident thereto; where located, giving the election precinct in which it is located; the number of each city lot and the improvements thereon, in what city, on which street, the value of each, and the value of the improvements thereon to the extent that they enhance the value of each lot; whether there is any land adjoining his owned by a nonresident of the county or state, giving the name and place of residence of any such owner, if known;

(b) The number of livestock, their type, species and value;

(c) All other property including the number, denomination and fair cash value of all bonds subject to taxation owned by him with the value thereof on January 1 of the year for which the assessment is made, unless otherwise provided by law; and

(d) Such other facts as may be required in the blanks provided.

(2) An error or informality in the description or location of the property, or in the name of the owner

or person assessed, shall not invalidate the assessment if the property can with reasonable certainty be located or identified from the description given, in which case the collector may receive the taxes and by his receipt correct the error or informality.

Section 8. KRS 132.330 is amended to read as follows:

The field agents, accountants and attorneys of the revenue cabinet shall cause to be listed for taxation all property omitted by the property valuation administrators, county board of assessment appeals, cabinet or any other assessing authority, for any year omitted. The agent, accountant or attorney proposing to have the property assessed shall file in the office of the county clerk of the county in which the property may be liable to assessment a statement containing a description and value of the property or corporate franchise proposed to be assessed, the name and place of residence of the owner, his agent or attorney, or person in possession of the property, if known, and the year the property was unassessed. The county clerk shall there upon issue a summons against the owner, or person in possession of the property if the owner is unknown, to show cause within ten (10) days after the service of the summons, why the property or corporate franchise shall not be assessed at the value named in the statement filed. No decision shall be rendered against the alleged owner unless the statement filed contains a description of the property sought to be assessed that will enable the county judge/executive to identify it. The summons shall be executed by the sheriff by delivering a copy thereof to the owner, or if he is not in the county to his agent, attorney or person in possession of the property. If the property is real property, *including mineral resources,* and the owner is known but is absent from the state and has no attorney or agent in this state and no one is in possession of the property, the summons shall be served by posting it in a conspicuous place upon the *surface of the* property; if the property consists of tangible personal property the summons shall be placed in a conspicuous place where the property is located. In the case of tangible and intangible personal property, where the owner and his place of residence are unknown and no one (1) has possession of the property, an action for assessment shall be instituted by filing the petition above mentioned and procuring constructive service against the owner under the provisions of rules 4.05, 4.06, 4.07 and 4.08 of the Rules of Civil Procedure. In all of the above cases an attachment of the property omitted from assessment may be procured from the district court against the owner, at the time of the institution of the action or thereafter, and without the execution of a bond by the Commonwealth or its relator, by the representative of the revenue cabinet making an affidavit that the property described in the petition is subject to state, county, school or other taxing district tax, and is unassessed for any taxable year.

Section 9. KRS 133.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the county board of assessment appeals.

(2) "Cabinet" means the revenue cabinet.

(3) "Taxpayer" means any person, *natural or legal,* made liable by law to file a return or pay a tax.

(4) "Real property" includes all lands, *and mineral resources,* within this state and improvements thereon.

(5) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

Section 10. KRS 143.020 is amended to read as follows:

For the privilege of severing or processing coal, in addition to all other taxes imposed by law, a tax is hereby levied on every taxpayer engaged in severing and/or processing coal within this Commonwealth at the rate of four and one-half percent (4.50%) of the gross value of all coal severed and/or processed during the reporting period; except that the minimum tax for a reporting period shall be an amount determined by applying a rate of fifty cents (50) per ton to the total number of tons severed during the reporting period. The minimum tax shall not apply to a taxpayer who only processes coal. *The amount of tax imposed hereby on any given taxpayer during any given calendar year shall be reduced by the state and local ad valorem taxes paid for "mineral resources " pursuant to KRS Chapter 132 by the same taxpayer for tax liability incurred during the preceding calendar year as a result of the ownership of the mineral resource by the taxpayer or a related party, or as a result of a requirement of a lease or other legal instrument which was in effect as of March 1, 1988. The Revenue Cabinet shall promulgate rules and regulatio* *and may require the sheriff of each coal producing county to report tax collection information to the cabinet.*

SECTION 11. A NEW SECTION OF KRS CHAPTER 144 IS IS CREATED TO READ AS FOLLOWS:

As used in this chapter unless the context requires otherwise:

(1) "Cabinet" means "Revenue Cabinet."

(2) "Coal" means and includes any material composed predominantly of hydrocarbons in a solid state. "Unmined coal" means coal in place within the earth."

(3) "Severed, "severing" or "severance" means the physical removal of coal from the earth in this state.

(4) "Ton" means a short ton of two thousand (2000) pounds. The number of tons shall be determined at the first point at which the coal is weighted.

(5) "Person" means any person natural or legal.

(6) "Owner" means any person, who is vested with title, in whole or in part, in fee to unmined coal notwithstanding the fact that said coal may be leased.

(7) "Gross royalty income" means income received by an owner of unmined coal as payment for the coal from the person, who severed the coal.

(8) "Reporting period" means the period for which each owner must compute his tax liability and remit the tax due to the cabinet. The reporting period shall be monthly. However, the cabinet may, under certain conditions, authorize a quarterly reporting period.

(9) "Related party" means two (2) or more persons owned or controlled directly or indirectly by the same interest. Control exists if a contract or lease, either written or oral, is entered into whereby one (1) party mines or processes coal owned or held by another party and the owner participates in the mining, processing, or marketing of the coal or receives any value other than an arm's length passive gross royalty income. In the case of related parties, the cabinet may apportion or allocate the receipts between or among such persons, organization, or businesses if it determines that such apportionment or allocation is necessary in order to more clearly reflect the fair "gross royalty income" of the owner.

(10) "Gross value" means gross value as defined in KRS 143.010 (6) except that transportation expenses excluded therein from gross value shall not be excluded in the definition of gross value herein.

(11) "Average county gross royalty income rate" means the percentage rate determined by dividing the total gross royalty income received from a particular county by the total gross value of all the coal severed within that county during any calendar year excluding the gross royalty income and the gross value of all coal severed by related parties within that county who the cabinet has determined are not paying taxes on a fair and equitable gross royalty income to the Commonwealth. The cabinet shall estimate the "average county gross royalty income rate" for each coal producing county to be used during the calendar year in which this Act becomes effective. After the "average county gross royalty income rate" is calculated for each county for the calendar year 1989, the cabinet shall recalculate the tax due from each owner who has used an estimated "average county gross royalty income rate" for the year 1988 and shall refund any overpayment of taxes paid pursuant to this chapter or notify the owner of any additional taxes due.

SECTION 12. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

For the privilege of having coal severed, in addition to all other taxes imposed by law, a tax is hereby levied on every "owner" within this Commonwealth at the rate of ten percent (10%) of the "gross royalty income" received during the "reporting period".

SECTION 13. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

If the "owner" of the unmined coal is a related party then the cabinet shall examine the method used to determine the gross royalty income and may determine that the gross royalty income as calculated by that owner does not represent a fair and equitable gross royalty income. If the cabinet does so determine that the gross royalty income as calculated by the owner is not a fair and equitable amount, then the owner shall calculate the gross royalty income in the following manner: The gross royalty income of that owner shall be that portion of the total gross value of the severed coal calculated by multiplying the average county gross royalty income rate for the county from which the coal was severed by the gross value of the coal severed for the owner.

SECTION 14. A NEW SECTION OF KRS Chapter 144 IS CREATED TO READ AS FOLLOWS:

The "Cabinet" shall prepare forms and every taxpayer as defined in KRS 143.010 (5), shall report the total "gross royalty income" payments made to each "owner" from whose property the taxpayer has severed coal during the reporting period. The total tonnage severed from the property of each "owner", the name and address of each "owner, the royalty rate, and the county from which the coal was severed, and such other information as the cabinet may deem necessary.

SECTION 15. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

(1) Every "owner" who is receiving "gross royalty income" shall file an application for a certificate of registration in such form as the cabinet may prescribe. Every application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

(2) On or before the twentieth day of the month following the reporting period in which any coal is severed the owner shall file with the cabinet a tax return in such form as the cabinet may require and remit the amount of the tax due. A tax return is required for each reporting period even though there may be no tax liability.

(3) Whenever any owner fails to comply with any provisions of this chapter, or any rule or regulation of the cabinet relating thereto, the cabinet may order the suspension or revocation of the certificate of registration held by such taxpayer.

(4) Any owner, including any officer of a corporation who receives "gross royalty income" in this state without obtaining a certificate of registration or whose certificate or registration has been suspended or revoked, shall be guilty of a misdemeanor and upon conviction therefor, shall be fined an amount not less that one thousand dollars ($1,000) or imprisoned for a period not to exceed six (6) months or both such fine and imprisonment.

(5) Any owner who is a related party shall, at the time of the filing of the application for a certificate or at the time they become a related party subsequent to the filing, so notify the cabinet, document the relationship, and explain the method which will be used to determine the gross royalty income, and the documentation of the basis for that method, if any.

SECTION 16. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

The cabinet shall administer the provisions of this chapter and shall have all the powers, rights, duties, and authority with respect to promulgation of rules and regulations, assessment, collection, refunding and administration of the taxes levied by this chapter conferred generally on it by the Kentucky Revised Statues including chapters 131, 134, and 135.

SECTION 17. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

(1) Any owner charged with the filing of reports and payment of the tax imposed by this chapter may be required to post a cash or corporate surety bond in an amount to be determined by the cabinet.

(2) The Commonwealth may bring an action for a restraining order, temporary or permanent injunction to restrain or enjoin any "person who is making "gross royalty income" payments to any "owner" from making such payments until the bond is posted. Such action may be brought in the Franklin Circuit Court or in the circuit having jurisdiction of the "person".

SECTION 18. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return is received, the cabinet shall examine and audit it. If the amount of tax computed by the cabinet is greater than the amount returned by the "owner" the excess shall be assessed within four (4) years from the date the return was filed, except as provided in subsection (2) of this section, and except that in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of such assessment shall be mailed to the "owner". The time herein provided may be extended by agreement the "owner" and the cabinet.

(2) For the purpose of subsections (1) and (4) of this section, a return filed before the last day prescribed by law for the filing thereof shall be considered as filed on such last day.

(3) Any final ruling, order or determination of the cabinet with regard to the administration of this chapter may be reviewed only in the manner provided in KRS 131.110 and 131,310 to 131.370.

(4) Notwithstanding the four (4) year limitation of subsection (1) in the case of a return where the taxpayer understates the "gross royalty income" by twenty-five (25%) or more, the excess shall be assessed by the cabinet within (6) years from the date the return was filed.

SECTION 19. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

(1) If any "owner" fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet. unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, five per cent (5%) of the tax due shall be added to the tax for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which filed, with a maximum penalty of twenty-five (25%) of the tax due. In no case, however, shall the penalty be less than ten dollars ($10.00).

(2) If any part of any deficiency is due to negligence, or intentional disregard of rules and regulations but without intent to defraud, five per cent (5%) of the total amount of the deficiency, in addition to the deficiency and other penalties provided in this section, shall apply.

(3) If any taxpayer fails to pay the tax imposed by this chapter within the time prescribed, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, the cabinet may assess penalty of ten per cent (10%) of the tax due.

SECTION 20. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

Any tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010 (6) from the date due until paid.

SECTION 21. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

No city, county, taxing district or other unit of government, except the Commonwealth of Kentucky, shall levy any occupational, license, excise, severance or other tax, assessment or impost of any kind whatsoever upon the privilege of having coal severed within the commonwealth of Kentucky.

SECTION 22. A NEW SECTION OF KRS CHAPTER 144 IS CREATED TO READ AS FOLLOWS:

Revenue produced pursuant to this chapter shall be collected and distributed by the revenue cabinet as follows:

(1) For each of the fiscal years beginning July 1, 1988, and July 1, 1989, the first one million dollars ($1,000,000) collected shall be transferred to the "restricted fund group" established by KRS 45.322(1)(e) for use by the Revenue Cabinet for the purpose of assessing mineral resources for ad valorem taxation purposes pursuant to KRS Chapter 132.

(2) After the transfer pursuant to the preceding subsection, an amount of the revenue collected pursuant to this chapter shall be transferred to the "operating fund group" established by KRS 45.322(1)(a) for the general operations of state government sufficient to reimburse the state for credits taken pursuant to KRS 143.020 for ad valorem taxes paid to local units of government by any taxpayer as defined in KRS 143.010(5), on a monthly basis.

(3) The remaining revenue collected for each reporting period shall be distributed as follows:

(a) One-half (1/2) to the county fiscal courts of coal producing counties, apportioned by the percentage of total tax collected pursuant to this chapter attributable to said county; and

(b) One-half (1/2) to the school districts within coal producing counties, apportioned to each county in the same manner as apportioned to fiscal courts in coal producing counties, and apportioned to each school district within said county based on the number of students in average daily attendance as determined by the education cabinet.

Section 23. If any provision of this Act or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of this Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 24. Whereas it is imperative that all property be assessed as of January 1, 1988, an emergency is declared to exist and the provisions of this Act shall be effective on January 1, 1988.

Floor Amendment No. 4 to Committee Substitute to **HB 1022**, by Representative B. Smith:

Amend printed copy of HCS for **HB 1022** on page 1, line 13, after "*hundred*" by inserting "*ninety*" and by deleting "*and eighty-eight*"

On page 10, line 5, after "of" by inserting "four" and by deleting "six"

On page 10, line 7, after "a" by inserting "two" and by deleting "four".

Floor Amendment No. 1 to **SB 48**, by Representative Donnermeyer:

Amend printed copy of **SB 48** on page 3, after line 26, insert the following language:

"Section 3. KRS 186.051 is amended to read as follows:

(1) Notwithstanding the provisions of this chapter, the cabinet shall by January 1, 1978, establish a year-round system for the registration of vehicles under the provisions of KRS 186.050(1). The system shall be designed so as to distribute the work load as uniformly as practicable within the various offices of the county clerks, as well as the cabinet, on a year-round basis. In implementing a year-round registration system, the cabinet may establish separate and distinct registration years. Each registration year so designated shall begin on the first day of a calendar month and expire on the last day of the last calendar month in a registration period. Registration periods may be designated to include less than twelve (12) consecutive months and registration fees shall be computed at a rate of one-twelfth of the appropriate annual registration fee per month in each registration period. The cabinet may establish a registration year of more than twelve (12) months except that registration fees for designated periods of more than twelve (12) months may be paid at the option of the owner. The cabinet may promulgate reasonable rules and regulations to carry out the orderly implementation and administration of the year-round registration system. *Any transaction relating to registration or registration renewal which would cause an unexpired Kentucky motor vehicle license plate to be surrendered shall have that unexpired fee prorated or credited against any additional fee required by a subsequent registration.*

(2) Notwithstanding the provisions of this chapter, the cabinet shall by April 1, 1980, establish a year-round system for the registration of vehicles under the provisions of KRS 186.050(3)(a). The system shall be designed so as to distribute the work load as uniformly as practicable within the various offices of the county clerks, as well as the cabinet, on a year-round basis. In implementing a year-round registration system, the cabinet may establish separate and distinct registration years. Each registration year so designated shall begin on the first day of a calendar month and expire on the last day of the last calendar month in a registration period. Registration periods may be designated to include less than twelve (12) consecutive months and registration fees shall be computed at a rate of one-twelfth of the appropriate annual registration fee per month in each registration period. The cabinet may establish a registration year of more than twelve (12) months except that registration fees for designated periods of more than twelve (12) months may be paid at the option of the owner. The cabinet may promulgate reasonable rules and regulations to carry out the orderly implementation and administration of the year-round registration system.

Section 3. KRS 186A.035 is amended to read as follows:

(1) All motor vehicles with a gross vehicular weight of six thousand (6,000) pounds or less, first registered, or for which the registration is renewed in this state on or after January 1, 1983, shall be placed in a system of year-round registration based upon the birth month of the owner, in order to distribute the work of registering motor vehicles as uniformly as practicable throughout the twelve (12) months of the year.

(2) If the owner of a motor vehicle is other than an individual, the month in which the owning entity came into being shall be used for purposes of this section. If a motor vehicle is jointly owned, the owners shall indicate to the county clerk the birth month of one (1) of them to be used for purposes of this section.

(3) The certificate of registration and license plate issued for a motor vehicle first registered, renewed, or titled in this state on or after January 1, 1983, shall be valid, unless cancelled by the cabinet in accordance with KRS Chapter 186 or this chapter, upon payment of the required fee, for a period beginning on the first day of the month of the year in which registration is applied for, and expiring on the last day of the next birth month of the owner following the month during which registration is applied for, provided however that, upon the owner's request, and after payment of the proper prorated fee, an owner may obtain a certificate of registration and license plate valid through the last day of his second birth month following the month and year in which he applied for a certificate of registration. *Any transaction relating to registration or registration renewal which would cause an unexpired Kentucky motor vehicle license plate to be surrendered shall have that unexpired fee prorated or credited against any additional fee required by a subsequent registration.*

(4) After a motor vehicle has been initially placed in the system of year-round registration, the owner shall renew the registration annually during the owner's birth month, by making application to the county clerk and paying the fee required for twelve (12) consecutive months of registration, which shall take effect on the first day of the month succeeding the owner's birth month and shall expire on the last day of the owner's next birth month. The county clerk shall be entitled to a registration fee of two dollars ($2) for each registration, or if said registration exceeds a twelve (12) month period the clerk shall receive a fee of three dollars ($3).

(5) At least thirty (30) days prior to the expiration of the registration of any motor vehicle previously registered in the Commonwealth as provided by subsection (1) of this section, the owner of the vehicle shall be notified by mail on the same notice required by KRS 134.805(6) of the date of expiration. Any registration renewal by mail shall require payment of an additional one dollar ($1) fee which shall be received by the county clerk. Non-receipt of the notice herein shall not constitute a defense to any registration related offense.

(6) Any owner who fails to renew the registration of a motor vehicle during the month in which the previous registration expired, shall, if he applies for renewal of the registration in some later month, pay the same fees that would have been required if the registration had been renewed in the month which the previous registration expired.

(7) Fees which must be prorated in carrying out the intent of this section shall be prorated on the basis of twelfths of the annual registration fee. Any vehicle which is registered at any time during a month, shall pay the fee required for that whole month plus any additional months of registration purchased consistent with the intent of the section.

(8) The county clerk shall ensure that the certificate of registration issued to an owner displays the month and year in which the registration period begins, and the month and year of its expiration, and shall issue to the owner a decal or decals corresponding to the month and year of expiration shown in the certificate of registration which shall be placed upon the corresponding license plate by the owner in the manner required by administrative regulations of the department of vehicle regulation."

Floor Amendment No. 1 to **SB 55**, by Representative Northup:

Amend printed copy of GA copy of **SB 55** on page 1, after line 5, by adding the following:

"Section 2. KRS 161.030 is amended to read as follows:

(1) The certification of all teachers and other school personnel is vested in the state board of education. When so certified, teachers and other school personnel shall not be required to have licensure, certification,

or other forms of approval from any other state agency for the performance of their respective assignments within the common schools. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the published rules and regulations of the state board of education.

(2) Certificates shall be issued to persons who have completed, at such colleges and universities as have been approved by the state board of education for the preparation of teachers and other school personnel, the curricula prescribed by the Kentucky council on teacher education and certification and approved by the state board of education for the certificates.

(3) Initial certification of all new teachers shall require the successful completion of appropriate written tests prior to certification. The tests shall be selected by the state board of education and shall measure communication skills, general knowledge, professional education concepts and knowledge in the specific teaching field of the applicant. The state board of education shall determine the minimum acceptable level of achievement on each test. The tests shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the tests and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the written tests, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the tests if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the tests. In the event the teacher fails the tests, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the tests shall be established by the state board of education. Provisions shall be made for persons having less than minimum levels of performance on any test to repeat that test, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The department of education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers, and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employe or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. *The internship may be served in a public school or a nonpublic school which has been accredited by the state department of education or a national accrediting association.* Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility and benefits for single salary experience increments. Upon successful completion of the beginning teacher program the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by state board of education regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator from a state-approved teacher training institution to be appointed by the president of that institution. In the event that more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal. In unusual situations the superintendent of public instruction may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee. In the event the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district. *In the case of a nonpublic school, if the teacher training institution is unable to provide a member to serve on the beginning teacher committee, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.* The resource teacher shall be appointed by the department of education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the department of education for work done outside normal working hours. *In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the department of education.* Priority shall be given to resource teachers with the same certification as the teacher intern in the following order:

(1) Teachers in the same school;

(2) Teachers in the same district; and

(3) Teachers in an adjacent school district.

The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be observing the beginning teacher in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the superintendent of public instruction shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the examinations as prescribed by the state board of education.

(9) In the event an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the regulations of the state board of education. The applicant shall remain eligible for the one (1) year certificate as provided in subsection (3) and for the opportunity to serve the internship for a period of four (4) years after establishing eligibility. If the internship is not completed within the four (4) year period, the applicant must re-establish eligibility by repeating and passing the testing program in effect for new teachers at that time.

(10) The state board of education shall approve the curricula of any standard college or university, or of any department thereof for the training of teachers, when the curricula comply with the rules and regulations of the state board of education for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula as approved by the state board of education, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed."

Floor Amendment No. 1 to **SB 118**, by Representative Blevins:

Amend printed copy of **SB 118** on page 10, after line 16, insert the following:

"SECTION 3. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be eligible to attend the driver improvement program established pursuant to KRS 186.574 who has been cited for any violation of KRS Chapter 177, 186 or 189, which has a penalty a mandatory revocation or suspension of his driver's license.

(2) No person shall be eligible to attend the driver improvement program established pursuant to KRS 186.574 for any violation when at the time of that violation, the person did not have a driver's license, or his driver's license had been suspended or had been revoked by the transportation cabinet.

(3) No person shall be eligible to attend the driver improvement program established pursuant to KRS 186.574 more than once during a twelve (12) month period.

(4) Any defendant who has been sentenced to attend the driver improvement pro

attend and the transportation cabinet shall notify the sentencing court when a person ordered to attend the said program is ineligible to attend under the provisions of this section or for any other reason. Upon notification to the trial court that a person is ineligible to attend, then the clerk of that court shall cause the case to be returned to an active calendar for a hearing on a day certain and a summons shall be issued to that defendant to appear and show cause, if any, why an alternative sentence should not be imposed.

Section 4. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education

program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(5) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The cabinet shall permit driver's education programs approved by the cabinet to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(6) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(7) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

(8)*(a)* Any person or legal entity that seeks to offer, conduct or operate *an alcohol driver* [~~a driver's~~] education program as provided in this section shall submit sufficient documentation to the cabinet in writing that such program is needed in the geographical area that is proposed to be served.

(b) Any person or legal entity which is certified by the transportation cabinet to operate an alcohol driver education program on a statewide basis shall be eligible to operate a driver improvement program on a statewide basis pursuant to KRS 186.574.

(c) The cabinet shall promulgate administrative regulations which specify what constitutes need for such programs in a given geographical area. The cabinet shall determine whether such need is shown to exist and shall establish by regulation an appeals procedure. The provisions of this subsection shall not apply to any driver's education program operating with the approval of the cabinet prior to July 15, 1986.

Section 5. KRS 186.574 is amended to read as follows:

(1) The transportation cabinet shall *supervise and regulate* [~~establish~~] a driver improvement program for new drivers and for traffic offenders. The program shall be composed of uniform education and training elements designed to create a lasting and corrective influence on the driving performance of traffic offenders. District courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to said driver improvement program and no other.

(2) Whenever any district court stipulates in its judgment of conviction that a person attend a driver improvement program, the court shall so indicate in the space provided on the abstract of conviction filed with the transportation cabinet. Upon receipt of such abstract, the transportation cabinet, or its representative, shall forthwith schedule such person to attend a driver improvement program. Failure of such person to attend and satisfactorily complete a driver improvement program in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The transportation cabinet shall supervise[~~, operate~~] and *regulate* [~~administer~~] said driver improvement program, and shall promulgate such regulations as are necessary relating to *certification,* facilities, equipment, courses of instruction, instructors and records of the program. *The cabinet may operate a driver improvement school in any county in addition to any certified school. However, the attendee shall be given the opportunity to choose which course he wants to attend.* In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete the prescribed driver improvement program, the transportation cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes the driver improvement clinic, at which time any such denial or suspension shall be rescinded.

(4) Persons participating in the driver improvement program as provided in this section shall, upon sentencing, pay a fee of fifteen dollars ($15.00) to defray the cost of operating the program *and five dollars ($5) to the transportation cabinet. The transportation cabinet shall collect the entire twenty dollars ($20) and*

pay the appropriate certified school its share."

Floor Amendment No. 1 to **SB 142**, by Representative Napier:

Amend printed copy of GA copy of **SB 142** on page 9, after line 21, insert the following:

"Section 5. KRS 29A.090 is amended to read as follows:

(1) Any prospective juror, age sixty-five (65) or older, as of the date summoned to report for jury service, may, at the option of such prospective juror, decline jury service by giving written notice to the court of such intention on or before the date that the prospective juror has been summoned to report for jury service. The written notice shall include the date of birth of the prospective juror.

(2) Except as provided in subsection (1) of this section, there shall be no automatic exemptions from jury service."

Floor Title Amendment to **SB 142**, by Representative Napier:

Amend printed copy of GA copy of **SB 142** on page 1, to amend the Title to read as follows:

"AN ACT relating to legal actions."

Floor Amendment No. 1 to **SB 249**, by Representative M. Brown:

Amend printed copy of GA copy of **SB 249** on page 1, line 14, by adding thereafter:

"Section 2. KRS 73.110 is amended to read as follows:

The county *may* [~~shall~~] provide the county surveyor with an office at the county seat, and with record books. The records shall be county property and shall be kept in the office of the surveyor *or the county clerk.*

Section 3. KRS 73.120 is amended to read as follows:

The county surveyor shall keep a record of plats, and explanatory notes of all surveys made by him or his deputies, and copies of the record, certified to by the county surveyor, shall be legal evidence in any court. No survey or resurvey of real estate made by any person except the county surveyor or his deputy, shall be considered as legal evidence in any court, unless such survey is made by mutual consent in writing, signed by the parties, and recorded in the county *clerk's or county* surveyor's office, or made by order of court. *Any survey or resurvey filed with the county clerk shall meet the requirements of KRS 64.012 and shall have required fees attached.*

Section 4. KRS 73.130 is amended to read as follows:

(1) In counties where there have been no record plat books kept by the county surveyors, the fiscal court, by contract with the county surveyor, may order him to record by plat and explanatory notes all or any part of the surveys he has made and preserved while in office, and any other surveys made and certified to by his predecessors in office. Surveys made in the past by a person other than the county surveyor shall not be platted in the record books except to explain some work done on the ground by the county surveyor.

(2) Anyone having a certified copy of a survey made by a county surveyor may have the survey platted and recorded *at his expense* in the *county clerk's or* surveyor's office. *Any such survey filed with the county clerk shall meet the requirements of KRS 64.012.*

Section 5. KRS 73.140 is amended to read as follows:

When the office of county surveyor is vacant, the county judge/executive shall order the county clerk to take charge of the books and papers of the office, and the clerk [~~during such vacancy~~] shall give certified copies of the records when demanded, and *the requirements of KRS 64.012 have been satisfied. Such* [~~such~~] copies shall be evidence in any court as if certified by the surveyor. [~~When another surveyor is qualified, the county judge/executive shall order that he have charge of the books and papers.~~]

Section 6. KRS 73.150 is amended to read as follows:

When the records of the county *surveyor* [~~surveyor's office~~] have been lost, mutilated or destroyed, they shall be supplied upon request of the county surveyor and county judge/executive from the records of the land office.".

The Clerk announced the following meetings:

The Committee on State Government, Room 16, upon adjournment.

The Committee on Natural Resources and Environment, March 18, 1988, 9:00 a.m., Room 104.

The Committee on Appropriations and Revenue, 15 minutes upon adjournment.

The Committee on Labor and Industry, Room 104, 15 minutes upon adjournment.

The Committee on Judiciary-Criminal, Room 107, upon adjournment.

The Committee on Rules, Speaker's Office, upon adjournment.

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., Friday, March 18, 1988.

On the roll call the vote was yeas 78-Adams, Adkins, Allen, Altman, Ark, Arnold, Ballard, Blandford, Blevins, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Gray, Gregory, Hancock, Handy, J. Harper, K. Harper, Hatcher, Hourigan, Jackson, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lear, Little, Lyne, Mack, Maggard, Mason, McBee, Meyer, Moberly, Napier, Nett, Noe, Noland, Northup, O'Brien, Priddy, Pritchett, Rapier, Reinhardt, B. Richardson, P. Richardson, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, R. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Worthington. Nays 3-Freibert, Heleringer, LeMaster.

The motion to adjourn was adopted.

FRIDAY, MARCH 18, 1988

FORTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Blandford.

Prayer by Reverend Dan Wylie, Freedom Christian Church, Russell Springs, Kentucky.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative McElroy moved that the reading of the Journal of March 17, 1988 be dispensed with and the same approved. Agreed.

A Free Conference Committee Report was filed on **HB 25**.

Senate Message

Announcing passage of **SB 130**, **SB 168**, **SB 263**, **SB 314**, **HB 37** with Senate Amendment, **HB 324** with Senate Amendment, **HB 544**, and **HB 596**.

Reference of Bills and Resolutions

The Clerk reported the Committee on Committees has referred the following Bills and Resolutions:

Banking and Insurance: **SB 392**.

Business Organizations and Professions: **SB 306, SB 316, SB 328, SB 333, SB 324**.

Counties and Special Districts: **SB 37**.

Energy: **HR 163**.

Health and Welfare: **SB 194**.

Judiciary-Civil: **SB 143**.

Natural Resources and Environment: **SB 377, SJR 17**.

Transportation: **SB 309**.

Report of Committees

The Committee on Rules reported **HB 785, SB 11, SB 14, SB 23, SB 88, SB 163, SB 184, HB 565, HB 976, HB 458, HB 587, HB 606, HB 618, HB 754, HB 901, HB 928, HB 939, HB 1021, HJR 115, SB 48, SB 65, SB 166, HB 76, HB 678, HB 872, HB 959, HCR 120** and **SB 178** have been posted for passage in Orders of the Day, March 21, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 21, 1988: **HB 22, HB 623, SB 271**.

The Committee on Rules reported the following Bills have been recommitted:

State Government: **SB 29, HB 213, HB 301**.

Appropriations and Revenue: **SB 180, HCR 128.**

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

Education: **SB 42, SB 286, SB 303, SCR 70, SJR 71.**

Cities: **SB 245, SB 376.**

Report of Committees

The Committee on Appropriations and Revenue reported **HB 282** and **HB 280**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee on Appropriations and Revenue reported **HB 861** and **HB 923** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 861, AN ACT relating to revenue and taxation for the funding of school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.637 is amended to read as follows:

(1) "Requesting school districts" shall mean those school districts for which the revenue cabinet is requested to act as tax collector under the authority of KRS 160.627(2).

(2) Reasonable expenses not to exceed the actual costs of collection incurred by any tax collector, except the revenue cabinet, for the administration or collection of the school taxes authorized by KRS 160.605 to 160.611, 160.613 to 160.617, and 160.621 to 160.633 shall be reimbursed by the school district boards of education on a monthly basis or on such basis as may be agreed upon by the boards of education and the tax collector. Such expenses shall be borne by the school districts on a basis proportionate to the revenue received by such districts.

(3) The following shall apply only when the revenue cabinet is acting as tax collector under the authority of KRS 160.627(2):

(a) When the cabinet is *initially* requested to be the tax collector under KRS 160.627(2), the cabinet shall estimate the costs of implementing the administration of [~~each~~] such tax so requested, and shall inform the requesting school district of this estimated cost. The requesting school district shall pay to the cabinet *ten percent (10%) of* this estimated cost referred to as "start-up costs" within thirty (30) days of notification by the cabinet. *Subsequent requesting school districts shall pay their pro rata share, or ten percent (10%), whichever is less, of the unpaid balance of the initial "start-up costs" until the cabinet has fully recovered such costs. Such payment shall be made within thirty (30) days of notification by the cabinet.*

(b) *The revenue cabinet shall also be reimbursed by each school district for its proportionate share of the actual operational expenses incurred by the cabinet in collecting the excise tax. Such expenses, which shall be deducted by the revenue cabinet from payments to school districts made under the provisions of KRS 160.627(2), shall be allocated by the cabinet to school districts on a basis proportionate to the number of returns processed by the revenue cabinet for each district compared to the total processed by the revenue cabinet for all districts* [~~For each calendar quarter after payment of the start-up costs, and no less than thirty (30) days before the beginning of such quarter, the revenue cabinet shall inform the requesting school district of costs needed to collect the tax authorized by KRS 160.621 for that calendar quarter and the requesting school district shall remit the same to the cabinet within thirty (30) days. If any such payments are in excess of the cabinet's actual costs of administration, or if any interest is earned on such payments, such excess or interest will be credited to the costs for the following quarter. If any such payments are less than the cabinet's actual costs of administration, the requesting school districts shall reimburse these additional costs within thirty (30) days of notification~~].

(c) All funds received by the cabinet under the authority of paragraphs (a) and (b) of this subsection shall be deposited into an account entitled the "school tax fund account," an account created within the restricted fund group set forth in KRS 45.305. The use of these funds shall be restricted to paying the cabinet for the costs described in paragraphs (a) and (b) of this subsection. This account shall not lapse.

(d) The cabinet is authorized to retain a portion of the school tax revenues collected in a special account entitled the "school tax refund account" which is an account created within the restricted fund group set forth in KRS 45.305. The sole purpose of this account is to authorize the revenue cabinet to refund school taxes. This account shall not lapse. Refunds shall be made in accordance with the provisions in KRS 134.580(2) and when the taxpayer has made an overpayment or a payment where no tax was due as defined in KRS 134.580(4) within four (4) years of payment.

(e) KRS 160.621 notwithstanding, when the cabinet is acting as tax collector under the authority of KRS 160.627(2) the requesting school district is authorized to enact the tax enumerated in KRS 160.621 only at the following rates: five percent (5%), ten percent (10%), fifteen percent (15%), and twenty percent (20%) on a school district resident's state individual income tax liability as computed under KRS Chapter 141.

(f) Beginning August 1, 1982 any school district which requests the cabinet to collect taxes under the authority of KRS 160.627(2) is required to inform the cabinet of this request not less than one hundred fifty (150) days prior to January 1.

(g) At no time will the cabinet be required to collect taxes authorized in KRS 160.621 of an individual when the cabinet is not pursuing collection of that individual's state income taxes. The cabinet is not required to collect or defend the tax set forth in KRS 160.621 in any board or court of this state.

(h) Any overpayments of the tax set forth in KRS 141.020 or payments made when no tax was due may be applied to any tax liability arising under KRS 160.621 before a refund is authorized to the taxpayer. In no event shall any individual's taxpayment be credited to the tax set forth in KRS 160.621 until all outstanding state income tax liabilities of that individual have been paid.

(i) KRS 160.510 notwithstanding, the state auditor is the only party authorized to audit the revenue cabinet with respect to the performance of its duties under KRS 160.621.

HB 923, AN ACT relating to capital construction budgeting.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.760 is amended to read as follows:

The provisions of any other law notwithstanding:

(1) The governor, *the chief justice, and the legislative research commission* shall include in *their* [~~the executive~~] branch budget *recommendations* [~~recommendation~~] and in the draft joint budget *resolutions* [~~resolution for the executive branch~~] submitted to each regular session of the general assembly pursuant to KRS 48.130, for the biennium period beginning July 1, *1990* [~~1980~~] and for each biennium thereafter, a recommended *branch* [~~state~~] capital construction program and a recommended *branch* program for the purchase of major items of equipment.

(2) The recommended capital construction *programs* [~~program~~] shall include:

(a) A complete list and summary description of each specific capital construction project recommended for funding during the biennium; and

(b) For each project:

1. The agency and purpose for which it will be used;

2. The justification for the project;

3. Its estimated completion date;

4. The total estimated cost of completing the project;

5. *The total estimated long term operating and maintenance costs of the project;*

6. The estimated cost of the project during the biennium;

7. Alternative methods available for project financing;

8.[~~6.~~] The recommended sources of funds for the entire project; and

9.[~~7.~~] The dollar amounts recommended for appropriation and the dollar amounts, listed by source, that are anticipated from every other source of funds for the biennium.

(3) All information required by subsection (2) of this section shall be included in *each* [~~the executive~~] branch budget recommendation. The joint budget resolution for *each* [~~the executive~~] branch shall contain only a complete list of the specific capital construction projects recommended for funding during the biennium and, for each project, the information specified in subparagraphs *6* [~~5~~]., *8* [~~6~~]. and *9* [~~7~~]. of subsection (2)(b) of this section.

(4) *The governor shall submit to the general assembly a six (6) year capital budget program plan. The plan shall include the recommended capital construction program for the biennium and integrate and be coterminous with any economic development strategic plan developed by the state. This six (6) year capital budget program plan shall include all anticipated bond issues. If appropriate, the chief justice and the legislative research commission shall also submit long-term capital budget programs in accordance with these provisions.*

(5) The governor shall include in the executive branch recommended capital construction program required in subsection (1) of this section, and the six (6) year capital budget program plan required in subsection (4) of this section, all agencies of the executive branch, including constitutional offices and the universities.

(6) During any biennium beginning July 1, *1990* [~~1980~~] and during each biennium thereafter, the amount allotted, from all sources, for expenditure on any project in the state capital construction program for that biennium shall not exceed the estimated cost of the project during that biennium, as shown in *each* [~~the executive~~] branch budget recommendation and in the joint budget resolution for *each* [~~the executive~~] branch enacted by the general assembly, except as provided in KRS 45.770 and 45.780.

(7)[~~(5)~~] The recommended program for the purchase of major items of equipment shall include:

(a) A complete list and summary description of each specific major item of equipment recommended for purchase during the biennium; and

(b) For each major item of equipment:

1. The agency and purpose for which it will be used;

2. The justification for the purchase;

3. The estimated cost of the item;

4. The recommended sources of funds; and

5. The dollar amounts recommended for appropriation and anticipated from every other source of funds for the purchase.

(8)[~~(6)~~] All information required by subsection *(7)*[~~(5)~~] of this section shall be included in *each* [~~the executive~~] branch budget recommendation. The joint budget resolution for *each* [~~the executive~~] branch shall contain

only a complete list of each specific item of major equipment recommended for purchase during the biennium and, for each item, the information specified in subparagraphs 3., 4. and 5. of subsection *(7)*[~~(5)~~](b) of this section.

(9)[~~(7)~~] When the general assembly disapproves a project or item of equipment that was previously approved, it shall be eliminated as a project or major item of equipment in the capital construction program. Moneys appropriated for that project or item of equipment but not allotted, and moneys allotted but not expended to the project or equipment account, shall be transferred to the capital construction and equipment purchase contingency account in the capital construction fund. Agency funds for a disapproved project or item, that have been appropriated but unallotted or allotted but unexpended, shall be returned to the appropriate agency fund.

(10)[~~(8)~~] Projects and major items of equipment disapproved under subsection *(9)*[~~(7)~~] of this section shall be terminated.

(11)[~~(9)~~] During any biennium beginning July 1, *1990* [~~1980~~] and during each biennium thereafter, the amount allotted from all sources for expenditure for the purchase of any major item of equipment shall not exceed the estimated cost of the item as shown in the executive branch budget recommendation and in the appropriation act or acts enacted by the general assembly and authorizing the purchase, except as provided in subsection *(12)*[~~(10)~~] of this section and in KRS 45.770 and 45.780.

(12)[~~(10)~~] A major item of equipment to be used for medical, scientific or research purposes, excluding computer equipment and aircraft, may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts enacted for the current biennium subject to the following conditions and procedures:

(a) Moneys specifically budgeted and appropriated by the general assembly for another purpose shall not be reallotted for expenditure on the item; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs;

(b) Funds are available for the purchase and the method of financing the purchase will not require an additional appropriation of state funds to acquire the item; and

(c) The purchasing agency shall, within thirty (30) days after making the purchase, report the purchase to the capital construction and equipment purchase oversight committee. The report shall include a description of the item, the purpose for which it will be used, the necessity for the purchase, and the amount expended for the purchase from each source of funds used.

(13)[~~(11)~~] A capital construction project or a major item of equipment may be authorized even though it is not specifically listed in the biennial budget report and appropriation act or acts, subject to the following conditions and procedures:

(a) Fifty percent (50%) or more of the actual cost shall be funded by federal or private funds, and fifty percent (50%) or less of the actual cost shall be funded by moneys appropriated to the capital construction and equipment purchase contingency account;

(b) Moneys specifically budgeted and appropriated by the general assembly for another purpose shall not be allotted or reallotted for expenditure on the project or major item of equipment; moneys utilized shall not jeopardize any existing program and shall not require the use of any current general funds specifically dedicated to existing programs; and

(c) The finance and administration cabinet shall submit the project or major item of equipment to the committee for review as provided by KRS 45.800.

(14)[~~(12)~~] The general assembly may provide in a budget bill for the capital construction and equipment purchase contingency fund to be used to advance funds to projects authorized to be financed by bonds, and to finance feasibility studies for projects which may be contemplated for future funding.

(15)[~~(13)~~] On or before September 1, the secretary of the finance and administration cabinet shall submit to the committee the following information:

(a) A complete list and summary description of every capital construction project and major item of equipment not completed as of June 30 of the prior fiscal year; and

(b) For each project and major item of equipment, as of July 1, of the current fiscal year:

1. The project phase;

2. The project account number, project name, and any other term employed to identify the project or major item of equipment;

3. The available balance in the project or major item of equipment account, and any sums considered available for that project or major item of equipment;

4. A statement of the transfers of funds to or from the project or major item of equipment account; and, any account to which transfers from each project or major item of equipment has been made;

5. The year in which the project or major item of equipment was approved, with specific reference to the legislation by which the project or item was approved;

6. Total expenditure on the project or major item of equipment;

7. The current estimated completion cost, including the amount required for annual inflation;

8. A statement that additional funds for the completion of the project or major item of equipment are or are not required; and, if required, why sufficient funds for completion are not available; and

9. Justification for the project or major item of equipment;

(c) The balance in the appropriated, but unallotted account; and the balance in any account, however designated, that contains appropriated, but unallotted funds for capital construction.

Section 2. KRS 45.765 is amended to read as follows:

The draft appropriation act or acts submitted to the general assembly by the governor, *the chief justice, and the legislative research commission,* and the appropriation act or acts enacted by the general assembly, shall comply with the provisions of KRS 45.750 to 45.800. Expressions of general exclusion, including but not limited to, “any act or statute to the contrary notwithstanding,” and, “the provisions of any other law notwithstanding,” shall not be effective as an exemption from the provisions of KRS 45.750 to 45.800. Exemptions from the provisions of KRS 45.750 to 45.800 shall include the specific projects exempted.

Section 3. KRS 48.190 is amended to read as follows:

(1) In addition to the information required by KRS 48.110, the governor shall include as a separate part of the branch budget request for the executive branch of government, the recommended program for capital construction and major items of equipment as provided by KRS 45.760.

(2) Any state owned or managed project funded by bond proceeds, including economic development projects, shall be included in the budget for approval in the appropriation bill.

The Committee on Appropriations and Revenue reported **SB 202**, **SB 301** with Committee Amendment attached thereto, and **SCR 83** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 202, AN ACT relating to bond authorities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 58.220 is amended to read as follows:

The authority may:

(1) Construct, reconstruct, maintain, repair, operate, and regulate projects at such locations within the city of Frankfort, Kentucky, as may be determined by the authority;

(2) Acquire any interests in real property pursuant to the condemnation procedures of the Eminent Domain Act of Kentucky;

(3) *Pursuant to* [~~Notwithstanding~~] KRS *Chapters 42 and* [~~Chapter~~] 56, the authority may *provide for the issuance of* [~~issue~~] revenue bonds, *through the state property and buildings commission,* payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Sell any building, structure, facility or any interests in land to the Commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(5) Lease any interest in real property, any building, facility, or structure to the Commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(6) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(7) Combine for financing purposes any two (2) or more projects;

(8) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(9) Notwithstanding KRS chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 58.210 to 58.315, and to dispose of these interests in property;

(10) Make and enter into such contracts and agreements with the Commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a well-planned complex;

(11) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) Receive and accept from the Commonwealth, the department, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(13) Do all acts necessary and proper to carry out the powers expressly granted in KRS 58.210 to 58.315.

Section 2. KRS 58.540 is amended to read as follows:

(1) The authority may provide for the issuance of revenue bonds, *through the state property and buildings commission, pursuant to KRS Chapters 42 and 56,* to pay all or any part of the cost of the acquisition of the properties of Churchill Downs or expenses incident thereto referred to in KRS 58.510, or any part thereof or interest therein, and secure the payment thereof by a lien on the properties acquired with the proceeds of the bonds. The bonds shall bear interest at such rate not exceeding ten percent (10%) per annum and shall mature at such time not exceeding fifteen (15) years from their date, as may be provided by the *commission* [~~authority~~], and may be made redeemable before maturity, at the option of the *commission* [~~authority~~], at a price not less than the face amount thereof and accrued interest thereon. The proceeds of the bonds shall be used solely for the payment of the cost of the acquisition of Churchill Downs or expenses incident thereto,

and shall be disbursed in such manner and under such restrictions, if any, as the *commission* [~~authority~~] may provide in the proceedings authorizing the issuance of the bonds or in the trust indenture securing the same.

(2) [~~Notwithstanding KRS Chapter 56,~~] The authority, in addition to the revenue bonds originally issued for the acquisition of Churchill Downs or expenses incident thereto as provided for in subsection (1) of this section, may, *pursuant to KRS Chapters 42 and 56, provide for the issuance of* [~~issue~~] revenue bonds, *through the state property and buildings commission,* payable solely from the charges, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of the acquisition of additional property, the reconstruction of improvements or the erection of additional improvements, but such revenue bonds shall be subordinate to the revenue bonds issued for the original acquisition of Churchill Downs or expenses incident thereto.

(3) [~~Notwithstanding KRS Chapter 56,~~] The authority, in addition to the revenue bonds originally issued for the acquisition of Churchill Downs or expenses incident thereto as provided for in subsection (1) of this section, and for the acquisition of additional property, the reconstruction of improvements or the erection of additional improvements provided for in subsection (2) of this section, may, *pursuant to KRS Chapters 42 and 56, provide for the issuance of* [~~issue~~] revenue bonds, *through the state property and buildings commission,* payable solely from the charges, revenues, rentals and other funds pledged for their payment, for the purpose of paying all or any part of the cost of further developing the museum at Churchill Downs and establishing a facility for the exhibition of prior Kentucky Derby and other important races held at Churchill Downs as aforesaid, but such revenue bonds shall be subordinate to any then outstanding previously issued revenue bonds.

(4) The authority may agree to or establish any method of interim financing by the authority during the acquisition of additional property, the reconstruction of improvements or the erection of additional improvements hereinbefore provided for and in developing the museum at Churchill Downs and establishing a facility for the exhibition of prior Kentucky Derby and other important races held at Churchill Downs as aforesaid, with borrowed funds from any bank, trust company, or banking institution, such borrowings to be paid from earnings or through the sale of revenue bonds *pursuant to KRS Chapters 42 and 56, through the state property and buildings commission* before, during or at completion of such project, but such revenue bonds shall be subordinate to any then outstanding previously issued revenue bonds; and the interest rates, maturities and other provisions shall be such as the *commission* [~~authority~~] may at the time of issuance deem to be proper.

(5) If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than the cost for which issued, additional bonds may in like manner be issued to provide the amount of the deficit, and, unless otherwise provided in the proceedings authorizing the issuance of the bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue exceed such cost, the surplus shall be deposited to the credit of the sinking fund for such bonds or any account therein as the *commission* [~~authority~~] shall have provided in the proceedings or trust indenture authorizing and securing the bonds.

(6) Prior to the preparation of definitive bonds, the *commision* [~~authority~~] may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds have been executed and are available for delivery. The *commission* [~~authority~~] may also provide for the replacement of any bonds that become mutilated or are destroyed or lost.

Section 3. KRS 150.610 is amended to read as follows:

The commissioner of the department of fish and wildlife resources, with approval of the commission, may *provide* [~~call~~] for the issuance of revenue bonds, *through the state property and buildings commission,* pursuant to *KRS Chapters 42 and 56 and* the entire terms of KRS 58.010 through 58.140 for the purpose of establishing public shooting areas, waterfowl or other wildlife refuges, public fishing lakes or the establishment of other projects of public benefit in the interest of fish and game and may unite into one (1) project for financing purposes all revenue as may be pledged by the commissioner. From every source whatsoever these revenues thus united shall be used for the payment of the principal and interest of all bonds which may be issued. Such united receipts, unless otherwise agreed upon by the commissioner and bonding company, shall continue until all bonds issued have been paid in full. The lien of the bonds from such limited project shall be a lien upon the united gross income and revenue as specified in the original terms ascribed to by the commissioner with the concurrence of the commission.

Section 4. KRS 151.370 is amended to read as follows:

The authority is further authorized and empowered:

(1) To construct, reconstruct, maintain, repair, operate and regulate water resources projects at such locations within the Commonwealth as may be determined by the authority;

(2) To acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise or otherwise, the fee simple title to or any acceptable lesser interest in any lands, and by lease or other conveyance, contract for the right to use and occupy any lands selected in the discretion of the authority as constituting necessary, desirable or acceptable sites for water resources projects of the authority;

(3) *Provide for the issuance of* [~~To issue~~] revenue bonds *pursuant to KRS Chapters 42 and 56 through the state property and buildings commission,* [~~of the authority~~] payable solely from the revenues, rentals, rates, charges and other funds, pledged for their payment, for the purpose of paying all or any part of the cost of any one (1) or more projects, and to refund any of its bonds;

(4) To fix by contract, or to establish and revise from time to time and charge and collect revenues, rentals, rates and charges for the use of the services and facilities of projects;

(5) To combine for financing purposes any two (2) or more projects;

(6) To establish and enforce rules and regulations for the use of any project;

(7) Without reference to KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under this chapter, and to dispose of the same;

(8) To make and enter into such agreements with the federal government, the Commonwealth or any of its agencies or political subdivisions and any other parties as may be necessary or incidental to the performance of its duties and the execution of its powers under this chapter;

(9) To employ such employes and agents as may be necessary in the judgment of the authority and to fix their compensation subject to KRS Chapter 18A;

(10) To receive and accept from the Commonwealth and any federal or other government agency or private concern, grants for or in the aid of planning for water resources management, water resources program establishment, or construction or development of any water resources project, and to receive and accept aid or contributions from any source of either money, property, labor or any other things of value, to be held, used and applied only for the purposes for which such grants and contributions may be made;

(11) To expend reasonable funds of the authority in the form of grants for research, scientific study or planning of the development of water resources throughout the Commonwealth;

(12) To adopt any rules or regulations necessary to accomplish the purposes of the authority;

(13) To do all acts and things necessary or convenient to carry out the powers expressly granted to the authority.

Section 5. KRS 151.720 is amended to read as follows:

The Kentucky River Authority is authorized and empowered, subject to KRS 151.700 and 151.710(1), to:

(1) Construct, reconstruct, provide for the major maintenance, or repair the locks and dams on the Kentucky River and all real and personal property pertaining thereto, as well as maintain the channel;

(2) Acquire by purchase, exercise of the rights of eminent domain, grant, gift, devise or otherwise, the

fee simple title to or any acceptable lesser interest in any real or personal property and by lease or other conveyance, contract for the right to use and occupy any real or personal property selected in the discretion of the authority as constituting necessary, desirable, or acceptable sites to fulfill its statutory authority and power;

(3) Lease its real or personal property to other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons as the authority deems necessary to carry out the purposes of this section;

(4) Sell or otherwise dispose of its real or personal property in accordance with KRS 56.463 and 45.360;

(5) *Provide for the issuance of* [~~Issue~~] revenue bonds *and revenue bond anticipation notes, pursuant to KRS Chapters 42 and 56, through the state property and buildings commission,* in accordance with KRS 151.730, payable from fees collected from all facilities using water from the Kentucky River or its tributaries, except those facilities using water primarily for agricultural purposes. Facilities charged such a fee may pass on all or any part of the fee;

(6) Contract for services with other state agencies, political subdivisions of the Commonwealth, corporations, partnerships, associations, foundations, or persons to perform its duties;

(7) Issue administrative regulations providing for clean water; and

(8) Exercise all other powers necessary to perform its public purpose.

Section 6. KRS 151.730 is amended to read as follows:

(1) The authority is hereby authorized to provide, at one (1) time or from time to time, for the issuance of [~~its~~] revenue bonds *pursuant to KRS Chapters 42 and 56, through the state property and buildings commission,* for the purpose of paying all or any part of the cost of any one (1) or more projects undertaken pursuant to KRS 151.720. The principal of and the interest on such bonds shall in each instance be payable solely from a special fund provided for such payment, with revenues derived from fees collected from all facilities using water from the Kentucky River or its tributaries, except those facilities using water primarily for agricultural purposes, pledged to be set aside and deposited in such special fund. The bonds of any issue may be in one (1) or more series and any one (1) or more such series may enjoy equal or subordinate status with respect to the pledge of funds from which they are payable, shall be dated, shall bear interest, shall mature at such time or times not exceeding the thirtieth (30th) anniversary of their respective dates, all as may be provided by the *commission* [~~authority~~], and may be made redeemable before maturity, at the option of the *commission* [~~authority~~], at such price or prices and under such terms and conditions as may be fixed by the *commission* [~~authority~~] prior to the issuance of the bonds. The *commission* [~~authority~~] shall determine the form of bonds including any interest coupons to be attached thereto, and shall fix the denomination or denominations of the bonds and the place or places for payment of principal and interest, which may be at any bank or trust company within or without the Commonwealth. The bonds shall be signed by the facsimile signature of the chairman of the *commission* [~~authority~~], and the seal of the authority or a facsimile thereof shall be affixed thereto [~~and attested by the manual signature of the treasurer of the authority,~~] and any coupons attached thereto shall bear the facsimile signature of the chairman of the authority. In case any officer whose signature or a facsimile of whose signature shall appear on any bonds or coupons shall cease to be such officer before the delivery of such bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes the same as if he had remained in office until such delivery. All bonds issued under the provisions of this section shall have and are hereby declared to have all qualities and incidents of negotiable instruments under the uniform commercial code of the Commonwealth. The bonds may be issued in coupon or in registered form, or both, as the *commission* [~~authority~~] may determine, and provision may be made for the registration of any coupon bonds as to principal alone and also as to both principal and interest, and for the reconversion into coupon bonds of any bonds registered as to both principal and interest. The *commission* [~~authority~~] may sell such bonds at public sale, and for such price as it may determine will best effect the purposes of KRS 151.720.

(2) The proceeds of the bonds of each issue shall be used solely for the payment of the cost of the project or projects for which such bonds shall have been issued, and shall be disbursed in such a manner and under such restrictions, if any, as the *commission* [~~authority~~] may provide in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same. If the proceeds of the bonds of any issue, by error of estimates or otherwise, shall be less than such cost, additional bonds may in like manner be issued to

provide the amount of such deficit, and, unless otherwise provided in the proceedings authorizing the issuance of such bonds or in the trust indenture securing the same, shall be deemed to be of the same issue and shall be entitled to payment from the same fund without preference or priority of the bonds first issued. If the proceeds of the bonds of any issue shall exceed such cost, the surplus shall be deposited to the credit of the sinking fund or funds for such bonds or any account or accounts therein as the *commission* [~~authority~~] shall have provided in the proceedings or trust indenture authorizing and securing such bonds.

(3) Prior to the preparation of definitive bonds, the authority may, under like restrictions, issue interim receipts or temporary bonds, with or without coupons, exchangeable for definitive bonds when such bonds shall have been executed and are available for delivery. The *commission* [~~authority~~] may also provide for the replacement of any bonds which shall become mutilated or shall be destroyed or lost.

(4) [~~The authority may issue revenue bond anticipation notes.~~

~~(5)~~] Any holder of bonds issued under the provisions of this section or any of the coupons appertaining thereto, and the trustee under any trust indenture, except to the extent of the rights given in this section, may be restricted by such trust indenture or proceedings, may, either at law or in equity, by suit, action, mandamus or other proceedings, protect and enforce any and all rights under the laws of the Commonwealth or granted under this section or under such trust indenture or the proceedings authorizing the issuance of such bonds, and may enforce and compel the performance of all duties required by this section or by such trust indenture or proceedings to be performed by the *commission* [~~authority~~] or by any officer or employe thereof.

(5)[~~(6)~~] Revenue bonds issued under the provisions of this section shall not be a debt, liability, or obligation of the Commonwealth or any political subdivision thereof and shall not be a pledge of the faith and credit of the Commonwealth or any political subdivision thereof.

(6)[~~(7)~~] Revenue bonds issued *for* [~~by~~] the authority shall [~~not~~] be subject to *KRS Chapters 42 and 56,* the jurisdiction *and* [~~or~~] approval of the state property and buildings commission *and* [~~or~~] the industrial revenue bond oversight committee *and* [~~but~~] shall be subject to *management* [~~review~~] by the division of investment and debt management.

(7)[~~(8)~~] The authority shall not be required to pay any taxes and assessments to the Commonwealth or any county, municipality or other governmental subdivision of the Commonwealth upon any of its property or upon its obligations or other evidences of indebtedness pursuant to the provisions of this section, or upon any moneys, funds, revenues or other income held or received by the authority and the bonds or notes of the authority and the income therefrom shall at all times be exempt from taxation, except for death and gift taxes and taxes of transfers.

(8)[~~(9)~~] Contractual expenses to construct, reconstruct, provide for the major maintenance, or repair the Kentucky River locks and dams, or to maintain the channel, or to acquire real or personal property pertaining thereto, or to construct, reconstruct, maintain, or repair such property, shall be paid from the proceeds of the revenue bonds. Expenses for administrative services provided to the authority by the natural resources and environmental protection cabinet, necessary travel expenses and per diem compensation of authority members, shall not be paid from the proceeds of the revenue bonds. Nor shall the cabinet's cost of operating the locks be paid from the proceeds of the revenue bonds.

Section 7. KRS 152A.505 is amended to read as follows:

The authority may:

(1) Construct, reconstruct, maintain, repair, operate, and regulate projects at such locations within the Commonwealth as may be determined by the authority;

(2) [~~Notwithstanding KRS Chapter 56,~~] The authority may *provide for the issuance of* [~~issue~~] revenue bonds *pursuant to KRS Chapters 42 and 56, through the state property and buildings commission,* payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(3) Sell any building, structure, facility or any interests in land to the Commonwealth of Kentucky,

the federal, city, or county government, or any person or corporation;

(4) Lease any interest in real property, any building, facility, or structure to the Commonwealth of Kentucky, the federal, city, or county government or to any person or corporation,

(5) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and other facilities;

(6) Combine for financing purposes any two (2) or more projects;

(7) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(8) Notwithstanding KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 152A.503 to 152A.543, and to dispose of these interests in property;

(9) Make and enter into such contracts and agreements with the Commonwealth of Kentucky or any federal, city or county government or other person or corporation as may be necessary or incidental to the effectiveness of a well-planned complex;

(10) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(11) Receive and accept from the Commonwealth, department, any federal agency, city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(12) Do all acts necessary and proper to carry out the powers expressly granted in KRS 152A.503 to 152A.543.

Section 8. KRS 153.420 is amended to read as follows:

The Kentucky center for the arts corporation:

(1) Shall supervise construction of the Kentucky center for the arts in conjunction with the finance and administration cabinet, and shall provide all management functions for the facility and for any other property acquired or leased pursuant to its powers under this section;

(2) May take, acquire and hold property, and all interests therein, by deed, purchase, gift, devise, bequest, lease or eminent domain, or by transfer from the state property and buildings commission, and may dispose of any property so acquired in any manner provided by law. In the exercise of its power of eminent domain, it shall proceed in the manner provided in the Eminent Domain Act of Kentucky, KRS 416.540 to 416.680;

(3) May *provide for the issuance of* [~~issue~~] revenue bonds, *pursuant to KRS Chapters 42 and 56 through the state property and buildings commission,* [~~subject to procedures which shall be established by the finance and administration cabinet,~~] solely payable from the charges, revenues, rentals, and other funds pledged for their payment for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Shall promote the growth and development of the arts, convention trade, tourism and the hotel industry within Jefferson county and the Commonwealth, through utilization of the Kentucky center to enhance these and the public interest;

(5) May adopt administrative regulations as provided in KRS Chapter 13A governing the operation, maintenance or use of property under its custody and control;

(6) May levy a surcharge on tickets for all functions held within the center to contribute to operating revenue;

(7) May receive tax revenues from any governmental unit, and financial contributions of local governments, private persons and foundations;

(8) Shall have exclusive control of all exhibitions, performances and concessions in the center for the arts. The corporation shall have a prior lien upon the property of any private exhibitor, concessionaire, or other person holding an exhibition or performance or operating a concession in the center, and may sell such property upon ten (10) days notice to satisfy any indebtedness;

(9) Shall develop in conjunction with local hotels, tourist packages including performance and group plans, and shall participate with local hotels and convention bureaus in attracting non-arts related conferences and conventions; and

(10) May establish an executive committee from among its membership with full authority to act between its meetings to the extent delegated by the corporation.

Section 9. KRS 180.070 is amended to read as follows:

The department may *provide for the issuance of* [~~issue~~] negotiable bonds *pursuant to KRS Chapters 42 and 56, through the state property and buildings commission,* in order to raise funds to:

(1) Acquire rights of way or other real or personal property necessary for constructing a bridge or bridge approach;

(2) Pay for the purchase or condemnation of a bridge or bridge approach;

(3) Build or cause to be built any bridge including approaches;

(4) Pay for the preparations of plans, specifications and blueprints, and other expenses incidental to the building or purchase of the bridge or bridge approach; and

(5) Pay the cost of bridge construction, repair, enlargement or reconstruction authorized under KRS 180.105 or KRS 180.106.

Section 10. KRS 183.630 is amended to read as follows:

For the purpose of defraying the cost of acquiring, constructing, maintaining, expanding, financing or improving any airport facilities or air navigation facilities, or any part thereof or interest therein, or contract for services therefrom the department may, with the approval of the governor, *and pursuant to KRS Chapters 42 and 56,* borrow money and *provide for the issuance of* [~~issue~~] negotiable bonds *through the state property and buildings commission.* A governmental unit may borrow money and issue negotiable bonds, for the same purposes, but only after an ordinance or resolution has been adopted by the legislative body specifying the proposed undertaking, the amount of bonds to be issued and the maximum rate of interest the bonds are to bear. The ordinance or resolution shall further provide that the revenue bonds are to be issued pursuant to the provisions of KRS 183.630 to 183.740.

Section 11. KRS 216.805 is amended to read as follows:

The authority may:

(1) Acquire, construct, reconstruct, maintain, repair, operate, and regulate, health projects including appropriately designed housing for elderly citizens at such locations within the Commonwealth of Kentucky, as may be determined by the authority;

(2) Acquire any interests in real property pursuant to the condemnation procedures of the Eminent Domain Act of Kentucky;

(3) *Pursuant to* [~~Notwithstanding~~] KRS Chapter 56 *and KRS Chapter 42*, the authority may *provide for the issuance of* [~~issue~~] revenue bonds, *through the state property and buildings commission*, payable solely from the charges, revenues, rentals, and other funds pledged for their payment, for the purpose of paying all or any part of the cost of any project or for the acquisition of property;

(4) Sell any building, structure, facility, or any interests in land to the Commonwealth of Kentucky, the federal, city, or county government, or any person or corporation;

(5) Lease any interest in real property, any building, facility, or structure to the Commonwealth of Kentucky, the federal, city, or county government or to any person or corporation;

(6) Fix and revise from time to time the charges and rent payments which will be paid by the different lessees for the use of the land, buildings and parking facilities;

(7) Combine for financing purposes any two (2) or more projects;

(8) Establish and enforce rules, specifications, and regulations for the construction and use of any project, except during any period when such powers are assigned to a lessee pursuant to a lease agreement;

(9) *Pursuant to* [~~Notwithstanding~~] KRS Chapter 56, to acquire and hold in the name of the authority real and personal property in the exercise of its powers and the performance of its functions and duties under KRS 216.800 to 216.853, and to dispose of these interests in property;

(10) Make and enter into such contracts and agreements with the Commonwealth of Kentucky or any federal, city, or county government or other person or corporation as may be necessary or incidental to the effectiveness of a project;

(11) Employ consulting engineers, attorneys, accountants, construction and financial experts, superintendents, managers, and such other employes and agents as may be necessary in the judgment of the authority, and to fix their compensation;

(12) Receive and accept from the Commonwealth, the cabinet, any federal agency, and the city or county, grants for or in aid of the construction of any project, and receive and accept aid or contributions from any source of either money, property, labor or other things of value, to be held, used and applied for the purposes for which such grants and contributions may be made; and

(13) Do all acts necessary and proper to carry out the powers expressly granted in KRS 216.800 to 216.853.

Section 12. KRS 247.180 is amended to read as follows:

(1) The state fair board is authorized and empowered to *provide for the issuance of* [~~issue and sell~~] negotiable revenue bonds *pursuant to KRS Chapters 42 and 56, through the state property and buildings commission*, in such denominations and in such amount or amounts as may be deemed by the board to be for the best interest of the Commonwealth, for any of the following purposes.

(a) To acquire real estate to be devoted to a revenue-producing use.

(b) To pay all or any part of the expense or cost of or incidental to a building project.

(c) To defray the cost of plans, specifications, blue prints, architectural fees and other expenses authorized to be incurred under the terms of KRS 247.130 and 247.140.

(2) Any revenue bonds so issued shall bear interest at a rate not exceeding five per cent (5%) per annum, payable semi-annually, and shall become due and payable not more than forty (40) years from the date of issuance. The payment of the bonds, together with the interest thereon, may be secured by a pledge and a first lien on all the receipts and revenue derived or to be derived, from any physical property under the control of the board. Neither the payment of any bond, nor the interest thereon, issued under the authority of this section, shall constitute an indebtedness of the commonwealth of Kentucky or of the state fair board,

nor shall any bond or interest thereon be payable out of any fund except such funds as may be derived from rentals or other revenues derived from the operation of the properties or from such revenues as may have been, or may be, available for such purpose or purposes, by law.

(3) All bonds which may be issued *for* [~~by~~] the board under the provisions of this section shall be sold to the highest bidder after having been advertised by publication pursuant to KRS chapter 424, and by such other advertising as the board may prescribe if it finds additional advertising is necessary.

(4) All competitive bids for the sale of such revenue bonds shall be opened and read publicly by the board or its representative at a designated place, day and hour, all of which shall be announced in the advertising made relative thereto.

(5) Except as otherwise specifically provided in this section, the board is vested with all of the rights, powers and duties set forth and enumerated under KRS chapter 58.

(6) In the event the *commission* [~~board~~] issues and sells revenue bonds for a building project as authorized in KRS 247.140 and this section, it may carry such insurance, including fire and windstorm, casualty, catastrophe, use and occupancy and such other insurance as the board may deem advisable in connection with the building project, and may so obligate and bind itself in a trust indenture securing the payment of such bonds. Any such insurance shall be paid for out of the funds available for the project.

(7) All money from the sale of revenue bonds shall be paid to the state treasurer and shall be held by him as a special trust fund to be designated as directed by the board, and no part thereof shall be withdrawn from the state treasury except for the purposes authorized by this section, together with the cost incidental to the issuing and selling of such bonds and other expenses directly related thereto. The *commission* [~~board~~] may likewise provide in any trust indenture securing revenue bonds for additional terms and conditions thereof, or for other restrictions not in conflict with this section.

Section 13. KRS 293.100 is amended to read as follows:

The authority shall have the following powers for carrying out the purposes of this chapter:

(1) To sue and be sued;

(2) To adopt an official seal and alter it at pleasure;

(3) To make and enforce rules for the conduct of its business and for use of its services and facilities;

(4) To maintain an office at any place within the state;

(5) To acquire, hold, use and dispose of its income, revenues, funds and moneys;

(6) To acquire, rent, lease, hold, use and dispose of other personal property for its purposes;

(7) To borrow money and to *provide for the issuance of* [~~issue~~] its savings bonds or notes *pursuant to KRS Chapters 42 and 56, through the state property and buildings commission* and to provide for and secure the payment thereof and to provide for the rights of the holders thereof, and to purchase, hold and dispose of any of its savings bonds or notes;

(8) To fix and revise from time to time and charge and collect fees and charges for the use of its services or facilities;

(9) To accept gifts or grants of property, funds, money, materials, labor, supplies or services from the Commonwealth or the United States of America or from any governmental unit or any person, firm or corporation, and to carry out the terms or provisions or make agreements with respect to any gifts or grants, and to do any and all things necessary, useful, desirable or convenient in connection with procurement, acceptance or disposition of gifts or grants;

(10) To do anything authorized by this chapter, through its officers, agents or employes or by contracts with any person, firm or corporation;

(11) To enter into and enforce all contracts necessary, convenient or desirable for the purposes of the authority or pertaining to any purchase or sale of bonds or notes, or to the performance of its duties and execution or carrying out of any of its powers under this chapter;

(12) To purchase or hold bonds and notes at such prices and in such manner as the authority deems advisable, and to *provide for the issuance of* [~~sell~~] bonds and notes, *through the state property and buildings commission,* acquired or held by it at such prices without relation to cost and in such manner as the authority deems advisable, all consistent with the policy of the state as declared in KRS 293.010;

(13) To do all things necessary, convenient or desirable to carry out the powers expressly granted or necessarily implied in this chapter.

SB 301, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Every organization which has qualified for exemption under Section 501(c)(3) of the Internal Revenue Code of 1986, as amended, shall be, for Kentucky tax purposes, an institution of purely public charity and its property shall be exempt from all state, county, district, city and school taxes.

The Committee Amendment No. 1 to **SB 301** is as follows:

Amend printed copy of **SB 301** on page 1, on line 5, after the comma following the word "*amended,*" by inserting the following underlined language:

"*and whose charitable activities constitute more than an incidental part of the organization's overall activities,*"

SCR 83, A CONCURRENT RESOLUTION concerning the programs and functions of State Government.

WHEREAS, the government of the Commonwealth of Kentucky has repeatedly over the past eight years faced revenue shortfalls which curtailed the delivery of vital services to our citizenry; and

WHEREAS, a meaningful and comprehensive review of the structure and functions of state government has not been undertaken in recent years; and

WHEREAS, the Kentucky General Assembly believes a thorough review of the structure and functions of the executive branch is warranted and desirable in the face of our current revenue problems; and

WHEREAS, such a comprehensive undertaking is necessary to assure the citizens that the present structure and functions of its government are efficient, productive and needed;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. There is hereby created the Commission on Kentucky's Government and its related committees.

Section 2. The purpose of the Commission is to thoroughly study each executive agency and its programs, functions and mission to determine that it is serving a legitimate public end, that it is functioning in the most efficient manner and that it is in fact effectively serving the citizens of the Commonwealth. The Commission shall make such recommendations as it deems appropriate to insure the most effective and wise expenditures of tax dollars.

Section 3. The Commission shall consist of fourteen (14) members:

(a) The co-chairs of the Legislative Research Commission shall serve as the co-chairs of the Commission;

(b) The Secretary of the Cabinet;

(c) The director of the Office of Policy and Management;

(d) The chairs of six (6) committees of the Commission on Kentucky's Government;

(e) The chairs of the House and Senate Appropriations and Revenue Committee; and

(f) The chairs of the House and Senate State Government Committee.

Section 4. The Commission shall receive reports and recommendations from the six (6) committees of the Commission on Kentucky's Government. The Commission shall resolve all questions of jurisdiction. The Commission is charged to make final recommendations to the Legislative Research Commission by September 1, 1989.

Section 5. There are hereby created six (6) committees of the Commission on Kentucky's Government. Each committee will be composed of no more than fifteen (15) members with those members not herein designated to be appointed by the co-chairs of the Legislative Research Commission. In making such appointments, the co-chairs of the Legislative Research Commission will not appoint more than one (1) executive officer to each committee. The co-chairs of the Legislative Research Commission shall, in making their appointments, draw from the private sector, constituent groups of the various programs, former cabinet officers, and citizenry at large. The co-chairs of the Legislative Research Commission shall appoint the chair of each committee from the non-legislative members. Committee chairmen have the prerogative of forming subcommittees.

Section 6. The six (6) committees and their jurisdictions shall be as follows:

(1) The committee on general government, finance and public protection whose jurisdiction shall include the following agencies, programs and functions:

1. The governor.

2. Lieutenant governor.

3. Department of state.

(a) Secretary of state.

(b) Board of elections.

4. Department of law.

(a) Attorney general.

5. Department of the treasury.

(a) Treasurer.

6. Department of agriculture.

(a) Commissioner of agriculture.

(b) Kentucky council on agriculture.

7. Auditor of public accounts.

8. Railroad commission.

9. Finance and administration cabinet:

(a) Office of legal and legislative services.

(b) Office of management services.

(c) Office of historic properties.

(d) Department for administration.

(e) Department of facilities management.

(f) Department of information systems.

(g) State property and buildings commission.

(h) Office of revenue estimating and economic analysis.

(i) Kentucky pollution abatement authority.

(j) Kentucky savings bond authority.

(k) Deferred compensation systems.

(l) Office of equal employment opportunity contract compliance.

(m) Capital plaza authority.

(n) County officials compensation board.

(o) Financial disclosure review commission.

(p) Kentucky employes retirement systems.

(q) Commonwealth credit union.

(r) State investment commission.

(s) Kentucky housing corporation.

(t) Governmental services center.

(u) Kentucky local correctional facilities construction authority.

(v) Kentucky turnpike authority.

(w) Historic properties advisory commission.

10. Labor cabinet:

(a) Department of workplace standards.

(b) Department of workers' claims.

(c) Kentucky labor-management advisory council.

(d) Occupational safety and health standards board.

(e) Prevailing wage review board.

(f) Workers' compensation board.

(g) Kentucky employes insurance association.

(h) Apprenticeship and training council.

(i) State labor relations board.

(j) Kentucky occupational safety and health review commission.

(k) Office of administrative services.

(l) Office of labor management relations.

(m) Office of general counsel.

11. Revenue cabinet:

(a) Department of property taxation.

(b) Department of processing and enforcement.

(c) Department of professional and support services.

12. Department of personnel.

13. Department of local government.

14. Kentucky commission on human rights.

15. Kentucky commission on women.

16. Department of military affairs.

17. Public protection and regulation cabinet:

(a) Public service commission.

(b) Department of insurance.

(c) Department of housing, buildings, and construction.

(d) Department of financial institutions.

(e) Department of mines and minerals.

(f) Department of public advocacy.

(g) Department of alcoholic beverage control.

(h) Kentucky harness racing commission.

(i) Kentucky state racing commission.

(j) Registry of election finance.

(k) Board of claims.

(l) Crime victims compensation board.

(m) Kentucky board of tax appeals.

(n) Backside improvement commission.

(2) The committee on justice, corrections and judiciary whose jurisdiction shall include the following agencies, programs and functions:

1. Corrections cabinet:

(a) Parole board.

(b) Commission on corrections and community services.

(c) Department of adult correctional institutions.

(d) Department of community services and facilities.

(e) Office of administrative services.

(f) Office of corrections training.

(g) Office of general counsel.

2. Justice cabinet:

(a) Department of state police.

(b) Department of criminal justice training.

(c) Office of administration.

(3) The committee on human resources whose jurisdiction shall include the following agencies, programs and functions:

1. Cabinet for human resources:

(a) Department for health services.

(b) Department for employment services.

(c) Department for social insurance.

(d) Department for social services.

(e) Department for medicaid services.

(f) Department for mental health and mental retardation services.

(g) Unemployment insurance commission.

(h) Commission for handicapped children.

(i) Public assistance appeals board.

(j) Office of administrative services.

(k) Office of communications and council affairs.

(l) Office of general counsel.

(m) Office of inspector general.

(n) Office of policy and budget.

(o) Office of the ombudsman.

(4) The committee on transportation whose jurisdiction shall include the following agencies, programs and functions:

1. Transportation cabinet:

(a) Department of highways.

(b) Department of vehicle regulation.

(c) Department of administrative services.

(d) Department of fiscal management.

(e) Department of rural and municipal aid.

(f) Office of aeronautics.

(g) Office of general counsel.

(h) Office of public relations.

(i) Office of personnel management.

(j) Office of minority affairs.

(5) The committee on education and humanities whose jurisdiction shall include the following agencies, programs and functions:

1. Education and humanities cabinet:

(a) Department for the blind.

(b) Department of education.

i. Superintendent of public instruction.

ii. State board of education.

(c) Department for libraries and archives.

(d) Governor's council on vocational education.

(e) Kentucky industries for the blind.

(f) Kentucky educational television.

(g) Kentucky historical society.

(h) Kentucky teachers retirement system board of trustees.

(i) Kentucky school building authority.

(j) Commission for deaf and hearing impaired.

(k) Kentucky literacy commission.

(l) Oral history commission.

(m) Council on higher education.

(6) The committee on commerce, energy and natural resources whose jurisdiction shall include the following agencies, programs and functions:

1. Commerce cabinet:

(a) Department of economic development.

(b) Department of the arts.

(c) Tobacco research board.

(d) Kentucky development finance authority.

(e) Office of business and technology.

2. Energy cabinet:

(a) Department of energy production and utilization.

(b) Department of energy research and development.

(c) Office of administration.

(d) Office of energy policy and evaluation.

3. Natural resources and environmental protection cabinet:

(a) Environmental quality commission.

(b) Kentucky nature preserves commission.

(c) Department for environmental protection.

(d) Department for natural resources.

(e) Department for surface mining reclamation and enforcement.

(f) Office of general counsel.

(g) Office of communications and community affairs.

4. Tourism cabinet:

(a) Department of travel development.

(b) Department of parks.

(c) Department of fish and wildlife resources.

(d) Kentucky horse park commission.

(e) State fair board.

(f) Office of administrative services.

(g) Office of general counsel.

Section 7. Each committee shall have the following designated members:

(1) Committee on General Government, Finance and Public Protection:

Chairs of House and Senate Business Organizations and Professions Committee; Chairs of House and Senate Banking and Insurance Committee; 1 member each from House and Senate State Government Committee.

(2) Committee on Justice, Corrections and Judiciary:

Chairs of House and Senate Judiciary-Civil Committee; Chairs of House and Senate Judiciary-Criminal Committee.

(3) Committee on Human Resources:

Chairs of House and Senate Health and Welfare Committee; Chairs of House and Senate Labor and Industry Committee.

(4) Committee on Transportation:

Chairs of House and Senate Transportation Committee; Chairs of House and Senate Counties Committee; Chairs of House and Senate Cities Committee.

(5) Committee on Education and Humanities:

Chairs of House and Senate Education Committee.

(6) Committee on Commerce, Energy and Natural Resources:

Chairs of House and Senate Energy Committee; Chairs of House and Senate Natural Resources Committee; Chairs of House and Senate Agriculture Committee.

Section 8. Any appointed member who fails to attend two (2) consecutive meetings shall be deemed to have resigned and the co-chairs of the Legislative Research Commission shall replace the same.

Section 9. The director of the Legislative Research Commission shall serve as chief of staff for the commission and its committees and will supply such staff assistance from the Legislative Research Commission to the commission and its committees as necessary to perform the reviews mandated.

Section 10. All state agencies shall supply in a timely fashion and without charge such information as is requested by the commission or its committees.

Section 11. Staff services to be utilized in completing this study are estimated to cost $200,000. These staff services shall be provided from the regular commission budget and are subject to the limitations and other research responsibilities of the commission.

The Committee on Counties and Special Districts reported **SB 224** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 224, AN ACT relating to coroners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 64.185 is amended to read as follows:

(1) Coroners shall receive out of the county or urban-county treasury, whichever is appropriate, such monthly compensation as the fiscal court of each county shall fix, subject to the following minimums:

County Population	Monthly Minimum Compensation
(a) 10,000 or less	*$ 200* [~~$100~~]
(b) 10,001 to 20,000	*300* [~~150~~]
(c) 20,001 to 40,000	*350* [~~175~~]
(d) 40,001 to 60,000	*400* [~~200~~]
(e) 60,001 to 100,000	*450* [~~225~~]
(f) 100,001 to 150,000	800
(g) 150,001 or more	1000

Provided, however, that coroners who hold a current certificate of continuing education, issued jointly by the bureau of training, department of justice, and the medical examiner program, department of justice, shall be paid the following minimum monthly compensation set forth in this subsection in recognition of such training:

County Population	Monthly Minimum Compensation
(a) 10,000 or less	*$ 300* [~~$150~~]
(b) 10,001 to 20,000	*400* [~~200~~]
(c) 20,001 to 40,000	*550* [~~325~~]
(d) 40,001 to 60,000	*650* [~~375~~]
(e) 60,001 to 100,000	*750* [~~450~~]
(f) 100,001 to 150,000	1000
(g) 150,001 or more	1200

(2) *Deputy coroners, who hold a current certificate of continuing education, as described in subsection (1) of this section, shall receive out of the county or urban-county treasury, whichever is appropriate, such monthly compensation as the fiscal court of each county shall fix, subject to the following minimums:*

County Population	*Monthly Minimum Compensation*
(a) 10,000 or less	$100
(b) 10,001 to 20,000	150
(c) 20,001 to 40,000	175
(d) 40,001 to 60,000	200
(e) 60,001 to 100,000	300
(f) 100,001 to 150,000	800
(g) 150,001 or more	1000

(3) The initial course of continuing education required under subsection (1) of this section shall consist of a basic training course prescribed by the department of justice. Annually thereafter the coroner shall attend and successfully complete at least eighteen (18) hours of approved training in order to be compensated in accordance with subsection (1) of this section.

(4)[~~(3)~~] In the event a deputy coroner assumes the office of coroner after receiving the training stipulated in [~~subsections (1) and (2) of~~] this section, the deputy coroner shall be compensated in accordance with the compensation schedule set forth in subsection (1) of this section.

Section 2. KRS 72.415 is amended to read as follows:

(1) For the purpose of enforcing the provisions of KRS 72.410 to 72.470, coroners and deputy coroners shall have the full power and authority of peace officers in this state, including the power of arrest and the authority to bear arms, and shall have the power and authority to administer oaths, to enter upon public or private premises for the purpose of making investigations, to seize evidence, to interrogate persons, to

require the production of medical records, books, papers, documents, or other evidence, and to impound vehicles involved in vehicular deaths, employ special investigators and photographers, and to expend funds for the purpose of carrying out the provisions of KRS 72.410 to 72.470. The fiscal court or urban-county government shall pay all reasonable expenses incurred by the coroner *and his deputy* in carrying out his responsibilities under the provisions of KRS 72.410 to 72.470.

(2) No person shall be eligible to hold the office of deputy coroner unless he holds a high school diploma or its recognized equivalent. Every deputy coroner, other than a licensed physician, shall be required as a condition of office to take during every calendar year he is in office the training course of at least eighteen (18) hours provided by the department of criminal justice training or other courses approved by the justice cabinet after having completed the basic training course the first year of employment.

The Committee on Counties and Special Districts reported **SB 336** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 336, AN ACT relating to license taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city or *county or* urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective January 1 or July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least sixty (60) days prior to the effective date, a copy of all ordinances and amendments thereto which impose any such license fee or tax. The commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities or *counties or* urban-county governments which have elected to impose such license fees or taxes and the current amount of such license fee or rate of tax.

(2) Any license fee or tax imposed by such a city or *county or* urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of such premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of such city or *county or* urban-county government.

(3) Any license fee or tax imposed by such a city or *county or* urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by such company within each calendar quarter on risks located within the corporate limits of the city or *county or* urban-county government on those classes of business which such company is authorized to transact, less all premiums returned to policyholders; however, any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employes, or death caused thereby, under the provisions of the worker's compensation act.

(4) The department of insurance shall, by regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting such tax; provided, however, that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city or *county or* urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection and remittance of the fee or tax and collection fee provided herein, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee herein may be rounded off to the nearest dollar amount.

(5) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by regulations promulgated by the department of insurance.

(6) Upon written request of the legislative body of any city or *county or* urban-county government, at the expense of the requesting city or *county or* urban-county government, which shall be paid in advance by such city or *county or* urban-county government to the department of insurance, the department of insurance shall examine or cause to be examined by contract with qualified auditors the books or records of the insurance companies or agents subject to such fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of such examination shall be reported to such city or *county or* urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city or *county or* urban-

county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(7) The license fees or taxes provided for by subsections (2), and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually by March 31 each insurer shall furnish each city or *county or* urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(8) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city or *county or* urban-county government is separate of penalties provided for in subsection (6) of this section. No city or *county or* urban-county government may impose any penalties other than those provided for in this subsection.

(9) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employes under KRS 18A.225(2).

10) Insurance companies which pay license fees or taxes pursuant to this section shall be allowed to credit city license fees or taxes against the same license fees or taxes levied by the county in which the city is contained.

Section 2. KRS 68.197 is amended to read as follows:

(1) The fiscal court of each county having a population of thirty thousand (30,000) or more, may by order or resolution impose license fees on franchises, provide for licensing any business, trade, occupation or profession, and the using, holding or exhibiting of any animal, article or other thing. License fees on such business, trade, occupation, or profession for revenue purposes, except those of the common schools, may be imposed at a percentage rate not to exceed one percent (1%) of:

(a) Salaries, wages, commissions and other compensation earned by persons within the county for work done and services performed or rendered in the county;

(b) The net profits of self-employed individuals, partnerships, professional associations, or joint ventures resulting from trades, professions, occupations, businesses or activities conducted in the county; and

(c) The net profits of corporations resulting from trades, professions, occupations, businesses or activities conducted in the county.

In order to reduce administrative costs and minimize paperwork for employers, employes and businesses, the fiscal court may provide:

(a) For an annual fixed amount license fee which a person may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on salaries, wages, commissions and other compensation earned within the county for work done and services performed or rendered in the county; and

(b) For an annual fixed amount license fee which an individual, partnership, professional association, joint venture or corporation may elect to pay in lieu of reporting and paying the percentage rate as provided in this subsection on net profits of businesses, trades, professions or occupations from activities conducted in the county.

Licenses imposed for regulatory purposes are not subject to such limitations as to form and amount. No public service company that pays an ad valorem tax is required to pay a license tax, and no license tax shall be imposed upon or collected from any [~~insurance company,~~] bank, trust company, combined bank and trust company, combined trust, banking and title business in this state, or any savings and loan association whether state or federally chartered, or in other cases where the county is prohibited by law from imposing a license tax.

(2) No such license fee shall be imposed or collected on income received by members of the Kentucky national guard for active duty training, unit training assemblies and annual field training.

(3) Persons who pay a county license fee pursuant to this section and who also pay a license fee to a city contained in the county may upon agreement between the county and the city, credit their city license fee against their county license fee.

(4) The provisions of subsection (3) of this section notwithstanding, effective with license fees imposed under the provisions of subsection (1) of this section on or after July 15, 1986, persons who pay a county license fee and a license fee to a city contained in the county shall be allowed to credit their city license fee against their county license fee.

The Committee on Judiciary-Criminal reported **HB 559** with Committee Amendment attached thereto, **HB 948**, and **SB 179** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 559, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) A person convicted of a misdemeanor or violation who has not received a graduation certificate from high school or a general equivalency diploma (GED) may, in addition to or in lieu of any other penalty provided by law, be sentenced to attend and successfully complete a program designed to improve his reading, living, and employment skills. Attendance at such program shall be deemed a form of probation and all provisions of the law with respect to probation, including restitution to victims, shall apply.

(2) A person convicted of a felony who has not received a graduation certificate from high school or a general equivalency diploma (GED) may, in addition to any other penalty provided by law, be sentenced to attend and successfully complete a program designed to improve his reading, living, and employment skills. Attendance at such program shall be deemed a form of probation and all provisions of the law with respect to probation, including restitution to victims, shall apply.

(3) The provisions of this section shall not apply to a person who is so severely retarded mentally or otherwise that he would not reasonably be expected to benefit from or complete the program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

(1) The program described in Section 1 of this Act shall be administered by the administrative office of the courts which shall issue administrative regulations relative to the conduct of the program including, but not limited to, the costs of participation in the program by persons sentenced to the program.

(2) The department of education shall license qualified persons or organizations to conduct the program described in Section 1 of this Act on behalf of the agency. Qualifications, the manner of licensing, and all other matters shall be set by administrative regulation.

SECTION 3. A NEW SECTION OF KRS CHAPTER 533 IS CREATED TO READ AS FOLLOWS:

Any person sentenced to the reading skills improvement program specified in Section 1 of this Act who fails to successfully complete the program within the time specified, who fails to attend as required, or fails to make progress toward successful completion shall be reported to the sentencing court and the court shall ascertain *whether or not the failures are wilful or the person is actually incapable of successfully completing the program due to mental or other retardation or other reasons beyond his control. In the event the failure is wilful, the court may proceed as in cases of probation violation and may apply such remedy as is authorized.*

The Committee Amendment No. 1 to **HB 559** is as follows:

Amend printed copy of **HB 559** on page 1, line 5, to delete "*a general equivalency diploma*"; and

On page 1, line 5, following "*or*" and to insert in lieu thereof "*has not passed the general educational development test*"; and

On page 1, line 14, to delete the "*a*" at the end of the line; and

On page 1, line 15, to delete "*general equivalency diploma*" and to insert in lieu thereof "*has not passed the general educational development test*"

On page 2, line 8, to delete "*administrative office of the*" and to insert in lieu thereof "*department of education*"; and

On page 2, line 9, to delete "*courts*"

HB 948, AN ACT relating to pretrial release.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 431 IS CREATED TO READ AS FOLLOWS:

(1) As of January 1, 1989, all pretrial release functions currently performed by pretrial release officers of the administrative office of the courts shall be transferred to the county jailer.

(2) As of January 1, 1989, the county jailer shall assign to a sufficient number of deputy jailers the pretrial release functions auhorized by law so that pretrial release interviews may take place at any time, day or night. If the jail is closed in a county, the jailer shall perform the pretrial release function.

(3) As of January 1, 1989, all records and the equipment in which records are stored or by which records are retrieved shall be transferred from the administrative office of the courts to the jailer of the county in which the jail from which a pretrial releasee was released is located.

Section 2. KRS 26A.100 is amended to read as follows:

(1) The circuit and the district court shall be held in the county courthouse of each county unless otherwise ordered by the Supreme Court in which case it may be held at any other location made available by the county and owned, leased, or controlled by the county. Circuit or district court may also be held in such other locations in the county as may be convenient and approved by the Supreme Court.

(2) Every county or urban-county government shall provide such reasonably available space which would not disrupt the operation of county government as necessary in the county courthouse, or in other county facilities as permitted in subsection (1) of this section, for:

(a) A courtroom or courtrooms for the circuit and the district court;

(b) Chambers for the circuit judge and district judge or judges;

(c) Office space for the circuit and district court staffs;

(d) Office and storage space for the circuit clerk's operations;

(e) Jury facilities for the circuit and the district court;

(f) Office space for other officers of the court of justice including [~~pretrial release officers,~~] court reporters, court administrators, judges' secretaries, friends of the court and commissioners; and

(g) Such other facilities necessary for the operation of the circuit and the district court as may be agreed upon by the county or urban-county government and the administrative office of the courts.

(3) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county facilities, every city shall, upon request of the administrative office of the courts, provide such reasonably available space which would not disrupt the operation of city government as necessary in the city's facilities for the operations of circuit or district court, or both. The city shall be responsible for providing space for the operations listed in subsection (2) of this section.

(4) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in county or city facilities, every agency of state government, special district, and independent agency of local government, other than a city, may, upon the request of the administrative office of the courts, provide such space as necessary in facilities owned, leased, or controlled by such organization for the operations of circuit or district court, or both. The agency may provide space for the operations listed in subsection (2) of this section.

(5) If all necessary facilities for the holding of circuit or district court, for the clerk's operations, or for the operation of the court or its ancillary functions, are not available in public facilities, private facilities may be rented, leased, purchased, or otherwise acquired, by the administrative office of the courts pursuant to permission granted by the chief justice for such acquisition and in compliance with the provisions of KRS Chapters 45 and 56.

Section 3. KRS 27A.020 is amended to read as follows:

The chief justice in his sole discretion may delegate the following functions to the administrative director of the courts or to his administrative assistants:

(1) Perform administrative services for the Court of Justice and supervise its clerical and administrative personnel, and its accommodations;

(2) Act as fiscal officer of the Court of Justice and in so doing shall:

(a) Maintain fiscal controls and accounts of funds appropriated for the Court of Justice;

(b) Review and audit expense vouchers of justices, judges, and employes of the Court of Justice. Upon approval, the chief justice shall submit the vouchers to the finance and administration cabinet, which shall certify the same to the state treasurer for payment;

(c) Prepare all requisitions for the payment of state moneys appropriated for the maintenance and operation of the Court of Justice;

(d) Prepare budget estimates of state appropriations necessary for the maintenance and operation of the Court of Justice and make recommendations in respect thereto;

(e) Collect statistical and other data and make report to the Supreme Court relating to the expenditure of public moneys for the maintenance and operation of the Court of Justice and the offices connected therewith;

(3) Ascertain the necessity for assignment of justices and judges as contemplated by section 110(5)(b) of the Constitution, make reports concerning their performance of duties and certify the compensation payable to them;

(4) Carry on a continuous survey and study of the organization, operation, condition of business, practice and procedure of the Court of Justice;

(5) Collect and compile statistical and other data concerning the operations of the courts, and to this end may require all necessary reports from the courts and clerks thereof of this Commonwealth relating to rules, dockets, and business dispatched or pending in such courts;

(6) Formulate and submit to the Supreme Court recommendations of policies for the improvement of the Court of Justice;

(7) Provide for educational programs for the members of the Court of Justice;

(8) Report to the general assembly concerning the work of the Court of Justice and make such recommendations for the improvement of administration of justice as deemed necessary and proper;

(9) *Set rules for the operation of* [~~Supervise, operate, and administer~~] all pretrial release programs [~~and personnel which come within the purview of the Court of Justice, or which are related thereto~~];

(10) Perform such other functions as may be assigned by the chief justice.

Section 4. KRS 431.515 is amended to read as follows:

(1) All *county jailers* [~~trial courts in this Commonwealth having jurisdiction of criminal causes~~] shall provide such pretrial release investigation and services as necessary to effectuate the purposes of KRS 431.510 to 431.550 and, where practical, to assist in the earliest possible determination of whether a person is a needy person under KRS Chapter 31.

(2) The Supreme Court may by appropriate rule or order establish and provide for such pretrial investigation and release services including, where practical, the taking of financial statements, and the court's determination of whether a person is a needy person as provided in KRS 31.120.

(3) If a person is released on any form of pretrial release the county jailer shall be entitled to a fee of four dollars ($4.00) which shall be paid by the defendant and shall be placed in a discretionary fund for the use of the jailer. The jailer shall make an annual accounting of the receipts and expenditures from the discretionary fund to the fiscal court and to the regional jail authority (if one exists for the county). This fee shall be in addition to any other fee or charge related to bail or pretrial release.

SB 179, AN ACT relating to archaeological sites and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.990 is amended to read as follows:

(1) Any person who violates the provisions of KRS *164.715 or subsection (1) of KRS 164.720 is guilty of a Class D felony, and in addition thereto shall forfeit to the state all equipment used in committing the offense for which such person is convicted* [~~164.715 or subsection (1) of KRS 164.720 shall be fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500) or confined in jail for not less than ten (10) days nor more than six (6) months, or both fined and imprisoned~~].

(2) Any person who violates the provisions of KRS 164.980 shall be fined not less than fifty dollars ($50) nor more than one thousand dollars ($1000) or shall be imprisoned in the county jail for not less than ten (10) nor more than ninety (90) days, or both.

Section 2. Whereas unauthorized archaeological activity is presently occurring on state property and it is desirable to punish such more severely as soon as possible, an emergency is declared to exist and this Act shall become effective upon its passage and approval by the Governor.

The Committee on Labor and Industry reported **HB 897**, **HB 898** and **HB 991** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

HB 897, AN ACT relating to underground coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

All mines utilizing conveyor belts shall employ one (1) or more persons to examine the conveyor belts while in operation at the mine to determine that no coal or mine refuse is being transported on the conveyor belt in a manner which would pose a threat to the health and safety of the employes or to the safety of the mine.

HB 898, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

All miners shall wear safety glasses as needed. The safety glasses shall be supplied to the miners by the coal operator at no cost to the miner.

SECTION 2. A NEW SECTION OF KRS CHAPTER 352 IS CREATED TO READ AS FOLLOWS:

All miners shall wear safety glasses as needed. The safety glasses shall be supplied to the miners by the coal operator at no cost to the miner.

HB 991, AN ACT relating to the regulation of construction.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 198B.060 is amended to read as follows:

(1) Each local government in the state of Kentucky shall employ a building official or inspector and other code enforcement personnel as necessary, or shall contract for such services in accordance with subsections (8) and (10) of this section to enforce the uniform state building code within the boundaries of its jurisdiction, and shall neither adopt nor enforce any other ordinance regulating buildings which conflicts with the uniform state building code, except that a building code adopted by a local government prior to March 28, 1978 may continue in effect until such time as the uniform state building code becomes mandatory within that local government jurisdiction.

(2) Local governments shall be responsible for the examination and approval or disapproval of plans and specifications for churches having a capacity of four hundred (400) or less persons, and six thousand (6,000) or less square feet of total floor area, and buildings of no more than three (3) stories in height, exclusive of attic and basement, which do not contain more than twenty thousand (20,000) square feet of floor area, and are not intended for educational, institutional or high hazard occupancy; or assembly, business or industrial occupancy in excess of one hundred (100) persons, except churches as stated in this subsection, or for use as a frozen food locker plant as defined in KRS 221.010. Local governments shall be responsible for the issuance and revocation of building permits, licenses, certificates and similar documents which cover activities within their area of responsibility, and the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. Each local government issuing a building or demolition permit or an initial certificate of occupancy on a new structure shall send a copy of such permit or certificate to the commissioner for his use in maintaining an accurate housing inventory for Kentucky.

(3) Urban-county governments may determine service districts within their boundaries within which farm dwellings and other farm buildings, not used in the business of retail trade or as a place of regular employment for ten (10) or more people, shall be exempt from the requirements of the uniform state building code. Such determination may be reviewed and altered by the board.

(4) The department shall be responsible for the examination and approval or disapproval of plans and specifications for all buildings which are not the responsibility of local governments. The department may issue and revoke permits, licenses, certificates and similar documents within its area of responsibility, and

shall have concurrent jurisdiction with local governments for the inspection of all buildings pursuant to the provisions of this chapter and the uniform state building code. If the commissioner determines that the local jurisdiction is not adequately performing any portion of its program, he may recommend to the board that the department preempt that portion of a local program. The commissioner shall explain his reasons for preemption in writing and provide a copy to the board and the local jurisdiction. The local jurisdiction may appeal the recommended preemption directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) to (12) of KRS 198B.070. No preemption by the department shall take place until the final decision of the board. If the department preempts any portion of a local program, it shall collect the fees applicable to that portion of the program.

(5) Any local government may petition the commissioner requesting that additional plan review functions be allocated to that local government. Such petition shall include evidence of the local government's capability to perform additional plan review functions. The commissioner, after review of the petition and supporting evidence, may grant or deny to the local government any part of a request for additional responsibility. If the commissioner denies any part of a petition, he shall explain his reasons for denial in writing, and provide a copy to the board and the local government. A local government may appeal such denial directly to the board, and the board shall review such appeal according to the procedures found in subsections (8) to (12) of KRS 198B.070. Should the local government be granted additional responsibility by the commissioner or the board, the department shall hold concurrent jurisdiction over such additional responsibility, but the local government shall collect any fees for functions it performs pursuant to such additional responsibility.

(6) Any local government may also petition the commissioner requesting that plans and specifications inspection, building inspection, and approval responsibility relating to the application of local plumbing permits for local installations be allocated to the local government. The petition shall not be granted unless the local government has demonstrated to the commissioner that it can perform these functions in accordance with the provisions of KRS 198B.050 to 198B.090.

(7) The commissioner shall expedite the review of plans and specifications by assigning responsibilities and coordinating review activities among the department's various functional offices so as to prevent unnecessary duplication in the review of plans and specifications.

(8) Upon the effective date of the uniform state building code, no building shall be constructed in this state until a local building official and an official representing the department, if the department has jurisdiction, issue a permit for such construction.

(9) The local building official or the representative of the department shall issue a permit if the proposed building satisfies the requirements of the uniform state building code and if the party desiring to construct the building has complied with all other legal requirements concerning the location and construction of said building. The applicant for a building permit, by the act of applying for the permit, is deemed to have consented to inspection, by the local government or the department, of such building during construction and upon the completion of construction for the purpose of determining that such building is constructed in compliance with the uniform state building code.

(10) After a certified electrical inspector has been employed, contracted for or with, or otherwise provided for by the local government or the department, no utility shall initiate permanent electrical service to any new building until a final certificate of approval has been issued by a certified electrical inspector. Unless the department shall notify the utility in writing as to which buildings are subject to departmental approval, it shall be presumed by the utility that the building is subject to the jurisdiction of the local government. However, nothing in this section shall prohibit the supply or use of necessary electrical services during the construction and testing process.

(11) This section shall apply to industrialized building systems but destructive disassembly of industrialized building systems which carry a seal of approval pursuant to a manufactured building law in the state in which they were manufactured, which seal of approval is accepted by the board of housing, buildings and construction, shall not be performed in order to conduct such tests or inspections.

(12) No building on which construction was begun nor any industrialized building system on which site preparation and assembly were begun after the uniform state building code became effective shall be occupied until the local building official or a representative of the department issues a certificate of occupancy certifying that the building was constructed in conformance with the standards of the uniform state building code, or assembled or installed in conformance with applicable instructions.

(13) A local government may associate with other local governments, and may seek the technical assistance of other agencies or area development districts in order to provide for the local enforcement of the uniform state building code.

(14) Local governments or associations of local governments may contract with a person, firm, or company to perform the plans and specifications inspection or building inspection functions required of the local government by the provisions of this section provided that:

(a) The person performing the plans and specifications inspection is certified by the department as having successfully completed the test requirements provided by KRS 198B.090 to practice as a certified plans and specifications inspector;

(b) The person performing the building inspection is certified by the department as having successfully completed the test requirements provided in KRS 198B.090 to practice as a certified building inspector;

(c) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities;

(d) The person performing the plumbing inspection is certified by the department as having successfully completed the requirements provided in KRS 318.140 to practice as a certified plumbing inspector; and

(e) The person, firm or company does not have a conflict of interest between its plan review or inspection functions and any other employment or business activities.

(15) If the department determines that an inspector is not enforcing the provisions of the Kentucky building codes, it shall require a hearing to review the inspector's procedures and return in written form the required corrections resulting from the hearing to the inspector.

(16) If, after written notification from the department to the inspector of the corrections required, the inspector fails to comply within sixty (60) days, the department shall suspend the inspector's certification until the inspector complies.

(17) Each local government and the department may establish a schedule of fees for the functions performed under the provisions of this chapter. Such fees *shall be applied to the costs of educational programs required pursuant to KRS 198B.090, and shall fund a supplemental salary, not to exceed two thousand dollars ($2,000) for each local code official who has attained any one of the five (5) levels of certification as adopted by the department. The department may determine the appropriate supplement for each level of certification. The fees* shall *also* be designed to fully cover the cost of the service performed [~~but shall in no case exceed the cost of the service performed~~]. Fees payable to the department shall be paid into the state treasury and credited to a trust and agency fund to be used by the department in carrying out the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth.

Section 2. KRS 198B.090 is amended to read as follows:

(1) On or before July 1, 1983, the department shall create and administer a certification program with sufficient testing procedures to certify the following professional classifications:

(a) Building inspector;

(b) Plans and specifications inspector; and

(c) Plumbing inspector.

(2) The testing procedures shall be sufficient to reflect the ability of the person applying for certification to inspect in accordance with those local, state, and federal building codes, fire codes, plumbing codes, or health and safety codes, that are applicable to the inspection duties for which he requests certification.

(3) The department shall conduct or sponsor pre-entry and in-service education and training programs on the technical, legal, and administrative aspects of building code administration and enforcement. For this

purpose it may cooperate and contract with educational institutions, area development districts, local, regional, state or national building officials' organizations, and any other appropriate organization.

(4) On or before July 1, 1983, the department shall create and administer an educational program designed to prepare building officials, code enforcement officers and other persons interested in obtaining from the department a certification as a building inspector, plans and specifications inspector, or plumbing inspector. The program shall be so designed as to insure uniform statewide enforcement of the applicable state building and plumbing codes. Training material coverage shall be adequate to prepare the participants with a working knowledge of construction design, specification terms, and the state building codes applicable to the particular field in which the applicant requests certification.

(5) Plumbing inspectors who are in compliance with KRS 318.090 as state inspectors and KRS 318.140 as city-county inspectors, shall be considered in accordance with subsections (1)(c) and (2) of this section and shall not be required to be retested by the department of housing prior to consideration for certification as a plumbing inspector. The department of housing shall review the plumbing inspector's qualifications and credentials for compliance with KRS 318.090 or 318.140 prior to issuing a certification to the inspector's certificate applicant.

(6) Attendance at the training sessions shall not be mandatory prior to testing for certification if the applicant's previous education or experience qualifies the applicant to obtain a passing score on the required certification test.

(7) Training sessions shall be held as frequently as is felt necessary by the commissioner to adequately provide for local and state building inspection needs.

(8) The department's plans and specifications review staff and the field inspection staff shall attend the training and become certified in accordance with the provisions of this section.

(9) All building inspectors, plans and specification inspectors, and plumbing inspectors shall be certified or enrolled and actively pursuing department certification by October 1, 1983 or within ninety (90) days after employment as an inspector, whichever comes later.

(10) The board shall establish a schedule of fees to cover the cost of the education, testing, and certification programs to be paid by the applicants for certification. The fees shall not exceed the actual cost of the services performed by the department to administer the programs listed in this section, *and may be supplemented by department and local government inspection and certification fees charged pursuant to KRS 198B.060.*

(11) The department may reimburse building officials, code enforcement officers and other employes of the state and its subdivisions for related expenses incurred by them for attendance at in-service training programs approved by the department.

The Committee on Labor and Industry reported **HB 919** and **HB 936** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 919. AN ACT relating to collective bargaining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Collective bargaining" or "bargain collectively" means the performance of the mutual obligation of the public employer and the exclusive representative to meet at reasonable times and negotiate in good faith with respect to wages, hours, and other terms and conditions of employment, for the negotiation of an agreement, and the execution of a written contract incorporating the agreement.

(2) "Employe organization" means any association or organization of any kind in which public employes participate and which exists for the primary purpose of dealing with public employers concerning wages, hours

and other conditions of employment;

(3) "Exclusive representative" means the employe organization which has been selected by a majority of the voting public employes in an appropriate unit as the representative of the public employes in the unit for purposes of negotiations;

(4) "Impasse" means the failure of a public employer and an exclusive representative to achieve agreement in the course of negotiations;

(5) "Mediation" means assistance by an impartial third party to attempt to reconcile a contract dispute between the public employer and the exclusive representative regarding wages, hours and other terms and conditions of employment;

(6) "Public employe" means any employe of a public employer except supervisors, elected officials, persons appointed to any board or commission by an elected official, employes of the general assembly of the Commonwealth of Kentucky, employes of any other legislative body whose principle duties are directly related to the performance of the legislative function, and employes on the governor's staff of the Commonwealth of Kentucky;

(7) "Public employer" means the Commonwealth of Kentucky, its agencies, or any political subdivision thereof;

(8) "Secretary" means the secretary of the labor cabinet of the Commonwealth of Kentucky;

(9) "Strike" means concerted action in failing to report for duty, the wilful absence from one's position, the stoppage or slowdown of work for the purpose of inducing, influencing or coercing a change in the wages, hours and other conditions of employment; and

(10) "Supervisor" means any individual who has authority, in the interest of the public employer, to hire, transfer, suspend, lay off, recall, promote, discharge, assign, reward or discipline public employes; to direct them; to adjust their grievances; or, in effect, to recommend such action, if the exercise of that authority is not of a merely routine or clerical nature but requires the use of independent judgment.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Except as provided in KRS Chapters 78 and 345, public employes shall have the option of choosing collective bargaining with regard to wages, hours and other terms and conditions of employment, any other statutory provisions to the contrary notwithstanding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The secretary shall promulgate administrative regulations necessary for the proper administration of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) Upon petition for exclusive recognition by an employe organization, the public employer shall request the secretary to appoint an independent arbitrator with expertise in public sector labor relations to conduct a hearing to determine an appropriate negotiating unit or units. The arbitrator shall determine the appropriate negotiating unit based on the following relevant factors:

(a) The community of interests of the public employes;

(b) Wages, hours and other working conditions of the public employes involved;

(c) The history and extent of the employe organization;

(d) The administrative structure of the public employer;

(e) The efficiency of operations of the public employer; and

(f) The adverse effect of overfragmentation.

(2) The public employer and any interested employe organization shall present their positions as to appropriate units to the arbitrator. The arbitrator shall make his recommendations to the secretary as to the appropriate unit. The recommendations shall be filed with the secretary within thirty (30) days after the final date of the hearing. The secretary shall accept the arbitrator's recommendations unless the secretary finds the arbitrator's recommendations arbitrary or capricious.

SECTION 5. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

(1) After the negotiating units have been determined, an employe organization may become the exclusive representative of all the public employes in the unit by a secret ballot election among public employes in the unit. The first employe organization which confirms by authorization cards that at least thirty percent (30%) of the public employes in a unit request that employe organization to represent the public employes shall be deemed to have satisfied the proper showing of interest and shall be represented upon the ballot. For any other employe organization to get on the ballot, the employe organization shall confirm by authorization cards that at least ten percent (10%) of the public employes in a unit request that employe organization to represent the public employes. The election shall be conducted under the auspices and direction of the secretary. A majority of those public employes voting shall be required to certify an employe organization as the exclusive representative for a unit. If there are more than two (2) employe organizations represented on the ballot, in addition to the option of no union, and there is no majority for any employe organization, or for the option of no union, there shall be a run off election between the two (2) choices receiving the highest and the second highest number of ballots cast.

(2) No more than one (1) election, excluding a run off election, shall be conducted for any group of public employes and any recognition shall continue from year to year thereafter. However, if, at the end of a negotiated agreement, thirty percent (30%) of the public employes in a previously recognized unit petition the secretary for a new election as to the continued maintenance of their exclusive representative, then the secretary shall proceed in accordance with the election procedure set forth in subsection (1) of this section. The petition shall be filed between the ninetieth day and the sixtieth day prior to the expiration of any negotiation agreement. Any election to remove or replace the recognized exclusive representative of the negotiating unit shall occur between the sixtieth and thirtieth day prior to the expiration of any collective bargaining agreement. Failure to adhere to this schedule shall bar the petition.

SECTION 6. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Matters which shall be excluded from the subject of collective bargaining are those which would interfere with the right of a public employer to:

(1) Supervise employes;

(2) Determine qualifications, standards for work, the nature and content of examinations, suspend, demote, and discharge, or take other disciplinary action against employes for cause;

(3) Relieve an employe from duties because of lack of work;

(4) Determine methods and means by which the employer's operations are to be conducted; and

(5) Take such actions as may be necessary to carry out the mission of the employer in cases of emergencies.

SECTION 7. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

A public employer shall have the authority and the duty to bargain collectively with an exclusive representative of his public employes. The mutual obligation of a public employer and an exclusive representative to bargain collectively shall not compel either party to agree to a proposal or require the making of a concession. All negotiated agreements shall include a grievance procedure which may culminate in binding arbitration. An agreement between a public employer and an exclusive representative shall be valid and shall be enforced under its terms.

The agreement shall provide that the public employer shall deduct from public employes' wages the appropriate dues required by an exclusive representative upon written authorization by a public employe. Only an exclusive representative shall be entitled to the dues deductions.

SECTION 8. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

All negotiation impasses shall be subject to mediation by the federal mediation and conciliation service at the request of either party. Additionally, at the request of either party, all impasses not resolved through mediation shall jointly be submitted to fact-finding by a three (3) member panel. Each party shall select one (1) member and the two (2) members shall select a neutral member, who shall serve as chairman. If the two (2) members are unable to agree on the neutral member, the parties shall request the federal mediation and conciliation service or the American arbitration association to appoint the neutral member. The fact-finding panel shall conduct a hearing during which the parties may testify. Not later than fifteen (15) days after the hearing, the fact-finding panel shall make the recommendations to the parties and to the public. The reasonable costs of all fact-finding shall be equally divided between the two (2) parties. The recommendations of the fact-finding panel shall be advisory to the parties.

SECTION 9. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

After a negotiated agreement has been agreed to by both parties, the public employer shall submit a request for funds necessary to implement the agreement and for approval of any other matter requiring the approval of the appropriate legislative body within fourteen (14) days of the date on which the parties finalize the agreement, unless otherwise specified. If the appropriate legislative body is not in session at the time, then the submission shall be within fourteen (14) days after it convenes. The legislative body shall approve or reject the submission as a whole, and the submission shall be deemed approved if the legislative body fails to act within thirty (30) days after the public employer submits the agreement. The parties may specify that those provisions of the agreement not requiring action by a legislative body shall be effective and operative in accordance with the terms of the agreement. If the legislative body rejects the submission of the public employer, either party may reopen all or part of the entire agreement.

SECTION 10. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Public employers, their agents, or their representatives are prohibited from:

(1) Interfering with, restraining, or coercing any public employe in or because of the exercise of any right guaranteed under this Act;

(2) Dominating, interfering with or assisting in the formation, existence, or administration of any employe organization;

(3) Encouraging or discouraging membership in any employe organization by discrimination in regard to hiring, tenure, or other terms and conditions or employment;

(4) Discharging or otherwise discriminating against a public employe because a public employe has signed or filed an affidavit, petition or complaint or has given information or testimony under this Act;

(5) Refusing to negotiate in good faith with an exclusive representative; and

(6) Refusing or failing to comply with any provision of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER IS CREATED TO READ AS FOLLOWS:

Employe organizations, their agents, or public employes are prohibited from:

(1) Interfering with, restraining or coercing any public employe in or because of the exercise of any right guaranteed under this Act. This subsection shall not impair the right of an employe organization to prescribe its own rules concerning the acquisition or retention of membership;

(2) Refusing to negotiate in good faith with the public employer or its designated representative if the employe

organization is an exclusive representative; and

(3) Refusing or failing to comply with any provision of this Act.

SECTION 12. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any violation of Section 9 or 10 of this Act shall be deemed to be an unfair labor practice which shall be resolved in accordance with administrative regulations promulgated by the secretary.

SECTION 13. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

No public employe shall engage in, and no employe organization shall sponsor or condone, any strike by public employes in the Commonwealth of Kentucky.

SECTION 14. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

This Act shall not affect the validity or enforceability of any agreement between an employe organization and a public employer if the agreement is in effect on the effective date of this Act; however, any agreement which expires subsequent to the effective date of this Act shall be renegotiated under the provisions of this Act unless the agreement is negotiated pursuant to KRS Chapter 78 or 345.

HB 936, AN ACT relating to polygraph examinations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

As used in this Act, unless the context clearly requires otherwise:

(1) "Polygraph examination" means any examination involving the use of any polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device whether mechanical, electrical, or chemical which is used, or the results of which are used, for the purpose of detecting deception or verifying the truth of statements;

(2) "Employer" means any person, either individual, corporation, partnership, agency or firm who employs and includes any person, either individual, corporation, partnership, agency or firm acting directly or indirectly in the interest of an employer in relation to an employe, but shall not include:

(a) The United States;

(b) Any bank, savings and loan association, or credit union; or

(c) Any law enforcement agency.

(3) "Employe" means any person employed by or suffered or permitted to work for an employer, but shall not include:

(a) Any individual employed by the United States;

(b) Any individual employed by a bank, savings and loan association, or credit union; or

(c) Any individual employed by a law enforcement agency.

SECTION 2. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

It shall be unlawful for any employer:

(1) Directly or indirectly, to require, request, suggest, or cause any employe or prospective employe to take or submit to any polygraph examination;

(2) To use, accept, refer to, or inquire concerning the results of any polygraph examination of any employe or prospective employe;

(3) To discharge, dismiss, discipline in any manner, or deny employment or promotion to, or threaten to take any such action against, any employe or prospective employe who refuses, declines, or fails to take or submit to any polygraph examination or any employe or prospective employe on the basis of the results of any polygraph examination;

(4) To discharge or in any manner discriminate against an employe or prospective employe because the employe or prospective employe has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act or has testified or is about to testify in any such proceeding or because of the exercise by the employe or prospective employe, on behalf of himself or others, of any right afforded by this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

The secretary shall:

(1) Prepare, have printed, and distributed a notice that employers are prohibited by this Act from using a polygraph examination on any employe or prospective employe. Upon receipt by the employer, the notice shall be posted at all times in conspicuous places upon the premises of every employer; and

(2) Promulgate administrative regulations as are necessary to effectuate the purposes of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 336 IS CREATED TO READ AS FOLLOWS:

Any employe or prospective employe injured by any act in violation of the provisions of this Act shall have a civil cause of action in the circuit court of the county where the violation occurred or in Franklin circuit court to enjoin further violations, and to recover double the actual damages sustained by him, together with the costs of the law suit, including a reasonable fee for his attorney of record.

The Committee on State Government reported **HB 924**, **SB 199** with Committee Substitute attached thereto, **SB 208**, **SB 209**, **SB 211**, **SB 216**, **SB 264**, and **SCR 68** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 924, AN ACT relating to purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.470 is amended to read as follows:

(1) "Agency" means any office, department, bureau or other institution in Kentucky state government which awards contracts for *the* purchase of *any and all* property, goods, *equipment, construction materials and services, and any other services* [~~or service~~];

(2) "Cabinet" means the finance and administration cabinet;

(3) "Small [~~or small minority~~] business set aside" means a purchase or contract request for which bids are to be invited and accepted only from small [~~or small minority~~] businesses by the cabinet;

(4) *"Small business" means a business, including its affiliates, which is independently owned and operated, is not dominant in the field of operation in which it is bidding on state contracts and is a business which employs less than one hundred (100) persons;* [~~"Small or small minority business" shall be defined by the administrative regulations promulgated by the cabinet.~~]

(5) Small minority business set aside" means a purchase or contract request for which bids are to be invited

and accepted on from small minority businesses by the cabinet;

(6) "Small minority business" means a business, including its affiliates, which, in addition to the definition listed in subsection (4) of this section, is owned and operated by fifty-one percent (51%) or more females or by persons of minority races. Minority races shall be limited to black, hispanic, asian, pacific islanders, American indian or Alaskan native.

(7) "Aggregate amount" means the total dollar amount of state revenues expended on state contracts, during a fiscal year, for the purchase of any and all property, goods, equipment, construction materials and services, and any other services.

(8) "Directory" means a publication of all small minority businesses, as defined in this Act, which are eligible to receive a small minority business set aside contract. The directory shall be titled the small business set aside directory and shall, at the very least, contain basic information such as business name, address, phone number and the types and brand names of products offered.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall designate, in each fiscal year hereafter, seven percent (7%) of the aggregate amount, as defined in this Act, as funds to be expended for small minority business set aside contracts.

(2) The cabinet shall, by administrative regulation, establish a process to verify whether or not a business is a small minority business, as defined in this Act, in order for same to be eligible to receive a state contract pursuant to this Act.

(3) The cabinet shall, prior to the beginning of each fiscal year, compile, publish and update a directory of eligible small minority businesses and this directory shall be distributed to each agency as defined in this Act.

SB 199, AN ACT relating to public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, the executive department of government shall accept from political subdivisions of the Commonwealth, and the judicial and legislative departments of government, all accrued annual and sick leave balances and service credits of employes leaving such subdivisions and departments and accepting appointments to the executive department. These leave balances shall be attested to by the former employer of the employe and shall not exceed those limits established by administrative regulation for employes of the executive department. This procedure shall be reversed for those employes leaving the executive department of government and accepting appointments to political subdivisions of the Commonwealth and the judicial and legislative departments.

The Committee Substitute to **SB 199** is as follows:

SB 199, AN ACT relating to public employes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, the executive department of government shall accept from the judicial and legislative departments of government, all accrued annual and sick leave balances and service credits of employes leaving such departments and accepting appointments to the executive department. These leave balances shall be attested to by the former employer of the employe and shall not exceed those limits established by statute or administrative regulation for employes of the executive department. This procedure shall be reversed for those employes leaving the executive department of government and accepting appointments to the judicial and legislative departments.

Section 2. KRS 18A.120 is amended to read as follows:

(1) Except as hereinafter provided, all hiring for the classified service shall be on the basis of competitive examinations and certification by the department in accordance with the provisions of KRS 18A.005 to 18A.200.

(2) As of February 29, 1976, when an entity and its employes, either initially or subsequently, is brought into *the* state service, all employes of that entity required to be covered under the classified service shall be required to meet the minimum qualifications for the positions to which they are assigned and to satisfactorily complete a probationary period, except that in the discretion of the commissioner they shall not be required to take an examination. The commissioner shall equitably assign such employes [~~to any step~~] within the salary range of an appropriate pay grade. *Upon the recommendation of the appointing authority the commissioner of personnel may authorize the credit of the amount of sick leave the employe had prior to being brought into state service. After completion of the initial probationary period employes employed under this statute shall be credited with the amount of service they had with this previous entity for accumulation of annual leave and other purposes of KRS Chapter 18A.*

SB 208. AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms executive order 86-573 changing the name of the division of field services within the department for social services, cabinet for human resources, to the division of family services.

SB 209. AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms Executive Reorganization Order 86-415, which created within the Department of Parks the Division of Resort Parks, Division of Recreational Parks and Historic Sites, Division of Project Administration, and Division of Customer Services; abolished within the Department of Parks the Division of Camping and Boat Docks, and Division of Operational Maintenance; and affirmed within the Department of Parks the divisions of Budget, Personnel, Accounting, Purchasing, Recreation, Accommodations, Rangers, Food Service, Maintenance, Construction, Planning, and Golf Courses.

SB 211. AN ACT relating to the Bluegrass State Skills Corporation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 157.720 is amended to read as follows:

(1) There is hereby created an independent, de jure corporation of the Commonwealth with all the general corporate powers incidental thereto which shall be known as the "Bluegrass State Skills Corporation." The corporation shall be a political subdivision of the state and shall be attached to the *office of the secretary, commerce cabinet* [~~department of education~~] for administrative purposes.

(2) The corporation is created and established to improve and promote the employment opportunities of the citizens of the Commonwealth by creating and expanding programs of skills training and education which meet the needs of business and industry.

(3) The corporation shall be governed by a board of directors consisting of eighteen (18) members, including: the commissioner of employment services, the secretary of commerce, the secretary of labor, the chairman of the council on higher education, and the superintendent of public instruction. Thirteen (13) members shall be appointed by the governor, including persons having knowledge and experience in business and industry, skills training, education, and minority employment; and at least one (1) of the thirteen (13) members shall be appointed to represent labor organizations. Each member appointed by the governor shall serve for a term of four (4) years, except that in making the initial appointments the governor shall appoint three (3) members to serve for one (1) year, three (3) members to serve for two (2) years, three (3) members to serve for three (3) years, and four (4) members to serve for four (4) years. All succeeding appointments shall be

for a term of four (4) years.

(4) In the event of a vacancy, the governor may appoint a replacement member who shall hold office during the remainder of the term so vacated.

(5) Any member may be removed from his appointment by the governor for cause.

(6) The governor shall designate a member of the board as its chairman.

(7) Members shall receive no compensation for their services but shall be entitled to reimbursement for any actual and necessary expenses incurred in the performance of their duties.

(8) The board of directors of the corporation shall annually elect a vice-chairman, secretary and a treasurer. The secretary shall keep a record of the proceedings of the corporation and shall be custodian of all books, documents, and papers filed with the corporation, and its official seal.

(9) The board shall hire an executive director and establish his salary. The executive director shall be the chief administrative and operational officer of the corporation and shall direct and supervise its administrative affairs and general management subject to the policies, control, and direction of the board.

(10) All officers and employes of the corporation having access to its funding shall give bond to the corporation, at its expense, in such amount and with such surety as the board may prescribe.

Section 2. The General Assembly confirms the reorganization of the Bluegrass State Skills Corporation by Executive Order 86-609, issued on July 28, 1986, to the extent it is not otherwise confirmed by this Act.

SB 216, AN ACT relating to the reorganization of the Kentucky Employes Retirement System.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly confirms the reorganization of the Kentucky Employes Retirement System by Executive Order 87-297 as follows:

Creating the Division of Records and Employer Services within the Kentucky Employes Retirement System within the Finance and Administration Cabinet. The division shall be headed by a division director appointed pursuant to KRS 12.050. The division shall be responsible for providing technical assistance to agencies anticipating participation in the retirement system; providing orientational programs and preretirement seminars; and creating, maintaining, updating and auditing records on these agencies and their employes from the date they began participating in the system. The division shall have the following organizational structure:

(1) The Field Services Branch is transferred from the Division of Employe Benefits to the Division of Records and Employer Services and shall be responsible for orientation programs for both employes and employers of participating agencies and those desiring to participate, preretirement conferences for all members and the tasks of interpreting laws, regulations, policies and procedures for employers and maintaining communications with such employers. All personnel, funds, records and equipment heretofore assigned to the Field Services Branch are hereby transferred to the Division of Records and Employer Services.

(2) The Records Branch is hereby established within the Division of Records and Employer Services and shall be headed by a Branch Manager who shall report directly to the Division Director. The Branch shall be responsible for creating, updating and auditing records on participating agencies and their employes and shall maintain agency records permanently.

(3) The Files Section in the Division of Benefits is hereby abolished. All personnel, funds and equipment heretofore assigned to the Files Section are hereby assigned to the Records Branch in the Division of Records and Employer Services.

SB 264, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194.030 is amended to read as follows:

The cabinet for human resources shall consist of the following major organizational units which are hereby created:

(1) Office of the secretary;

(2) The office for policy and budget. The office for policy and budget shall provide the secretary with professional support in planning, budgeting, and policy analysis, including the appraisal of needs, the formulation of policy and the evaluation of programs. The office for policy and budget shall be headed by an administrator who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050;

(3) The office of the counsel. The office of the counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The office of the counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The office of the counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The attorney general, on the request of the secretary, may designate the general counsel as an assistant attorney general in accordance with the provisions of KRS 15.105;

(4) The office of the ombudsman. The office of the ombudsman shall provide a review of citizen complaints on services of the cabinet for human resources when such complaints cannot be resolved through normal administrative remedies. The office of the ombudsman shall be headed by an ombudsman who shall be appointed by the governor with the advice of the secretary. The ombudsman shall be directly responsible to the secretary;

(5) The office of administrative services. The office of administrative services shall be responsible for providing administrative support services within the cabinet for human resources. All fiscal, facility and information management functions of the cabinet shall be vested in the office of administrative services. The office of administrative services shall be headed by an executive director who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the office of administrative services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(6) The department for social insurance. The department for social insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The department for social insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The department for social insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for social insurance shall exercise authority over the department for social insurance under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(7) The department for medicaid services. The department for medicaid services shall serve as the single state agency in the Commonwealth to administer Title XIX of the federal Social Security Act. The department for medicaid services shall be headed by a commissioner for medicaid services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for medicaid services shall exercise authority over the department for medicaid services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(8) The department for health services. The department for health services shall develop and operate all programs of the cabinet that provide health services and all programs for the prevention, detection, care, and treatment of physical disability, illness, and disease. The department for health services shall be headed by a commissioner for health services who shall be appointed by the secretary with the approval of the governor

in accordance with KRS 12.050. The commissioner for health services shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for health services shall exercise authority over the department for health services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(9) The department for mental health and mental retardation services. The department for mental health and mental retardation services shall provide services for all programs for the prevention, detection and treatment of mental disability, illness and disease and administer all programs for the assistance of community treatment and prevention of such disability, illness and disease. The department for mental health and mental retardation services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary for human resources with the approval of the governor in accordance with KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary for human resources and shall only fulfill such responsibilities as delegated by the secretary;

(10) The department for social services. The department for social services shall develop and operate all social service programs of the cabinet. The department for social services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the department for social services under the direction of the secretary and shall only fulfill such responsibilities as delegated by the secretary;

(11) The department for employment services. The department for employment services shall develop and operate all employment development and placement programs including all job recruitment and business liaison functions, employability development and training programs, and all job counseling and job placement programs of the cabinet. In addition the department shall develop and operate all programs relating to unemployment insurance laws of the Commonwealth including responsibilities relating to hearing and judging unemployment insurance benefit appeals. The department for employment services shall be headed by a commissioner for employment services who shall be appointed by the secretary with the approval of the governor in accordance with KRS 12.050. The commissioner for employment services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for employment services shall exercise authority over the department for employment services under the direction of the secretary and shall fulfill only such responsibilities as delegated by the secretary;

(12) The office of the inspector general. The office of the inspector general shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted;

(b) Such licensing and regulatory functions as the secretary may delegate; and

(c) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The office of the inspector general shall be headed by an inspector general who shall be appointed by the secretary with the approval of the governor. The inspector general shall be directly responsible to the secretary; [~~and~~]

(13) The commission for handicapped children. The duties, responsibilities and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of handicapped children, and to the extent that funds are available, shall provide such services and facilities for handicapped children as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the governor to serve a term of office of four (4) years. The commission may promulgate such administrative regulations pursuant to KRS Chapter 13A as may be necessary to

implement and administer its responsibilities. The duties, responsibilities and authority of the commission for handicapped children shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the governor pursuant to KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the governor a full written statement of its reasons for such removal. The executive director shall report directly to the commission for handicapped children and serve as the commission's secretary*; and*

(14) The commission for health economics control in Kentucky. The duties, responsibilities and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS 216B.010 to 216B.990, shall be performed by the commission. The commission may promulgate administrative regulations pursuant to KRS Chapter 13A necessary to implement and administer its responsibilities.

Section 2. KRS 194.110 is amended to read as follows:

(1) *The Kentucky health care cost containment advisory committee shall be attached to the cabinet for human resources for administrative and support purposes. The Kentucky health care cost containment advisory committee shall advise the governor and the governor's executive staff upon the state of the health care delivery system and the health care reimbursement system in the Commonwealth.*

(a) The committee shall be composed of three (3) citizens of the Commonwealth with a background in and knowledge of Kentucky's health care system, health care reimbursement system and health care planning system.

(b) Members of the committee shall be appointed by the governor. The governor shall appoint one (1) of the members as chairman [~~The Kentucky certificate of need and licensure board and its associated bodies are hereby attached to the department for health services for administrative and support purposes. The Kentucky certificate of need and licensure board shall advise the council for health services, the secretary for human resources, and the commissioner for health services on the administration and operations of the certificate of need and licensure program. The composition, structure, authority, responsibilities, activities, programs, and resources of the Kentucky certificate of need and licensure board shall continue and remain in its present form, except that it shall not have authority to expend funds, hire employes, issue grants, or otherwise engage in the normal administrative processes of the department. This authority and responsibility shall reside exclusively with the secretary for human resources and such employes of the department designated by the secretary to hold these powers~~].

(2) The advisory council for medical assistance and its associated bodies are hereby attached to the *department for medicaid services* [~~bureau for social insurance~~] for administrative and support purposes. The advisory council for medical assistance shall advise the [~~council for social insurance, the~~] secretary for human resources and the commissioner for *medicaid services* [~~social insurance~~] on the administration and operations of the medical assistance program.

(3) The *statewide health coordinating* [~~comprehensive health planning~~] council and its associated bodies are hereby attached to the *department* [~~bureau~~] for health services for administrative and support purposes. The *statewide health coordinating* [~~comprehensive health planning~~] council shall advise the council for health services, [~~the Kentucky certificate of need and licensure board,~~] the secretary for human resources, and the commissioner for health services on the total health service, facility, and resource needs of the Commonwealth and the allocation of resources to address those needs.

Section 3. KRS 194.120 is amended to read as follows:

The *commission for health economics control in* Kentucky *and the commission for handicapped children* [~~certificate of need and licensure board~~] shall be the only statutory *bodies* [~~body~~] attached to the *cabinet* [~~department~~] that shall have the authority to issue administrative regulations. No other corporate body or instrumentality of the Commonwealth, advisory committee, interstate compact, or other statutory body, presently or hereinafter attached to the *cabinet* [~~department~~], shall issue administrative regulations, but shall operate only in an advisory capacity.

Section 4. KRS 216B.010 is amended to read as follows:

The general assembly finds that the licensure of health facilities and health services is a means to insure that the citizens of this Commonwealth will have safe, adequate and efficient medical care; that the proliferation of unnecessary health care facilities, health services and major medical equipment results in costly duplication and underuse of such facilities, services and equipment; and that such proliferation increases the cost of quality health care within the Commonwealth. Therefore, it is the purpose of this chapter to provide for the establishment of the *commission for health economics control in* Kentucky [~~health facilities and health services certificate of need and licensure board~~] for the purpose of [~~licensing health facilities and services, and~~] acting on applications for certificates of need.

Section 5. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter *13A* [~~13~~].

(2) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located.

(3) "Applicant" means any person, health facility, or health service requesting a certificate of need or license.

(4) *"Cabinet" means the cabinet for human resources which functions as the state health planning and development agency* [~~"Board" means the Kentucky health facilities and health services certificate of need and licensure board~~].

(5) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof.

(6) "Capital expenditure minimum" means six hundred thousand dollars ($600,000) for the twelve (12) month period beginning July 15, 1980 and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. donations of equipment or facilities to a health facility which if acquired directly by such facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review.

(7) "Certificate of need" means an authorization by the *commission* [~~board~~] to proceed to acquire, to establish, to offer, to substantially change the bed capacity or to substantially change a health service as covered by this chapter.

(8) *"Commission" means the commission for health economics control in Kentucky* [~~"Cabinet" means the cabinet for human resources which functions as the state health planning and development agency~~].

(9) *"Committee" means the Kentucky health care cost containment advisory committee* [~~"Federal act" means the National Health Planning Resources Development Act of 1974, P.L. 93-641, and subsequent amendments~~].

(10) *"Federal act" means the National Health Planning Resources Development Act of 1974, P.L. 93-641, and subsequent amendments.*

(11) "Formal review process" means the ninety (90) day certificate of need review conducted by the *commission* [~~board~~].

(12)[~~(11)~~] "Health facility" means any institution, place, building, agency or portion thereof, public or private, whether organized for profit or not, used, operated or designed to provide medical diagnosis, treatment, nursing, rehabilitative or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to health facilities and health services commonly referred to as hospitals, psychiatric hospitals, tuberculosis hospitals, skilled nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance services, non-emergency health transportation services, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and free standing hemodialysis units, health maintenance organizations, and others providing similarly organized services regardless of nomenclature.

(13)[~~(12)~~] "Health maintenance organization" means a public or private organization, organized under KRS 304.38-010 to 304.38-200, which:

(a) Is a qualified health maintenance organization under the federal act; or

(b) 1. Provides or otherwise makes available to enrolled participants health services, including at least the following basic health services: usual physician services, hospitalization, laboratory, x-ray, emergency and preventive services, and out of area coverage;

2. Is compensated (except for co-payments) for the provision of the basic health services listed in subparagraph 1. of this paragraph to enrolled participants by a payment which is paid on a periodic basis without regard to the date the health services are provided and which is fixed without regard to the frequency, extent, or kind of health service actually provided; and

3. Provides physicians' services primarily;

a. Directly through physicians who are either employes or partners of such organization; or

b. Through arrangements with individual physicians or one (1) or more groups of physicians (organized on a group practice or individual practice basis).

(14)[~~(13)~~] "Health service area" means a particular geographical area designated by the governor as a health service planning area.

(15)[~~(14)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including but not limited to diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services.

(16)[~~(15)~~] "Local health planning agency" means a health planning agency organized for a particular geographical area of the Commonwealth and designated by the governor.

(17)[~~(16)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum except that such term does not include medical equipment acquired by or on behalf of a medical laboratory. For purposes of this paragraph, "medical equipment expenditure minimum" means four hundred thousand dollars ($400,000) for the twelve (12) month period beginning July 15, 1982 and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of such equipment shall be included.

(18)[~~(17)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095.

(19)[~~(18)~~] "Operating cost expenditure minimum" means two hundred fifty thousand dollars ($250,000)

for the twelve (12) month period beginning July 15, 1982 and as adjusted annually thereafter.

(20)[~~(19)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record.

(21)[~~(20)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state or political subdivision or instrumentality (including a municipal corporation) of a state.

(22)[~~(21)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of a local health planning agency, the cabinet or the *commission* [~~board~~];

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for a local health planning agency, the cabinet or the *commission* [~~board~~] regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for a local health planning agency, the cabinet or the *commission* [~~board~~];

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and *opinions of the commission or the findings of fact and* recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the *commission* [~~board~~].

(23)[~~(22)~~] "Secretary" means the secretary of the cabinet for human resources.

(24)[~~(23)~~] "State health plan" means the document duly adopted by the state health planning council and approved by the governor.

(25)[~~(24)~~] "State health planning council" means the statewide health coordinating council or a state health planning agency established and designated by the governor.

(26)[~~(25)~~] "Substantial change in a health service" means the addition of a clinically related service not previously provided in the health facility which entails an annual operating cost which exceeds the operating cost expenditure minimum, or the addition of a health service for which there is a component of the state health plan, or the addition of a health service subject to licensure under this chapter, or the reduction or termination of a health service which had previously been provided in the health facility.

(27)[~~(26)~~] "Substantial change in bed capacity" means the addition, reduction, relocation or redistribution of beds by licensure classification within a health facility.

(28)[~~(27)~~] "To acquire" means to obtain from another by purchase, lease or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition is deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, leased or acquired by comparable arrangement by one person from another person.

(29)[~~(28)~~] To "batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities or equipment affecting the same health service area.

(30)[~~(29)~~] "To establish" means to construct, develop, or initiate a health facility.

(31)[~~(30)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in such contract have been met. An option to purchase or lease which is not binding, shall not be considered an enforceable contract.

(32)[~~(31)~~] "To offer" means, when used in connection with health services, to hold a health facility or health maintenance organization out as capable of providing, or as having the means of providing, specified health services.

Section 6. KRS 216B.025 is amended to read as follows:

(1) There is hereby created *a separate administrative agency of state government to be known as* the *commission of health economics control in* Kentucky [~~health facilities and health services certificate of need and licensure board consisting of seventeen (17) members, to be appointed by the governor,~~] for the purpose of carrying out *its* [~~the~~] duties prescribed in this chapter. *The commission shall be composed of the members of the Kentucky health care cost containment advisory committee. The chairman of the Kentucky health care cost containment advisory committee shall serve as chairman of the commission* [~~The board shall be appointed as follows: two (2) members from the Kentucky Hospital Association, two (2) members from the Kentucky Medical Association, two (2) members from the Kentucky Association of Health Care Facilities, one (1) member from the Kentucky Nurses Association, one (1) member from the Kentucky Primary Care Association, one (1) member from the Kentucky Dental Association, one (1) member from the Kentucky Pharmacists Association, and four (4) members who are consumers with an interest in education, rehabilitation, mental health, home care programs, or ambulatory care services and three (3) members who are consumers not associated with any health facilities or delivery of health services. The aforesaid associations shall nominate three (3) persons for each appointment to be made. The state health planning council shall nominate three (3) persons for each of the consumer positions. The governor shall appoint a chairman from the consumer members of the board~~]. Members of the *commission* [~~board~~] shall serve for a term of four (4) years. In the event of a vacancy the person appointed shall serve only for the remaining portion of the vacated term. All members shall serve until such time as their successors are qualified and appointed.

(2) *The secretary shall employ the members of the commission on a full-time basis and furnish necessary office space and assistance* [~~Board members shall receive fifty dollars ($50.00) per day for each day spent in active board duty and shall be reimbursed for allowable expenses for each day spent in active board duty.~~

~~(3) No person shall serve as a member of the board if he concurrently is a member of the board of a local health planning agency or a member of the state health planning council~~].

(3)[~~(4)~~] A majority of the *commission* [~~board~~] members shall constitute a quorum for the transaction of any business, for the performance of any duty, or for the exercise of any power of the *commission* [~~board~~]. No vacancy in the *commission* [~~board~~] shall impair the right of the remaining members to exercise all of the powers of the *commission* [~~board~~].

(4)[~~(5)~~] No member of the *commission* [~~board~~] may, in the exercise of any function described in this chapter, vote on any matter before the *commission* [~~board~~] respecting any applicant, licensee or holder of a certificate of need with which such member has or, within the twelve (12) months preceding the vote, had any substantial ownership, employment, medical staff, fiduciary, contractual, creditor, or consultative relationship. A member who has or has had such a relationship with the applicant, licensee or holder of a certificate of need involved in a matter before the *commission* [~~board~~] shall make a written disclosure of the relationship before any action is taken by the *commission* [~~board~~], and such disclosure shall become part of the record of the proceeding.

Section 7. KRS 216B.030 is amended to read as follows:

(1) The principal office of the *commission* [~~board~~] shall be located at the state capital, and it shall be kept open during the usual business hours.

(2) The *commission* [~~board~~] shall hold meetings at its principal office and at such other convenient places in the Commonwealth as are expedient or necessary for the proper performance of its duties.

Section 8. KRS 216B.035 is amended to read as follows:

(1) The secretary shall [~~serve in an advisory capacity to the board and shall~~] provide the *commission* [~~board~~] such administrative staff assistance as may be required by the *commission* [~~board~~] to carry out its duties and functions under the provisions of this chapter.

(2) [~~The secretary shall appoint an executive director.~~] The *chairman* [~~executive director~~] shall keep a full and true record of all the proceedings of the *commission* [~~board~~], of all books and papers ordered filed by the *commission* [~~board~~], and of all [~~licenses,~~] exemptions[~~,~~] and certificates of need issued by the *commission* [~~board~~], and shall be responsible to it for the safe custody and preservation of all documents in its office. Under the direction of the *commission* [~~board~~], the *chairman* [~~executive director~~] shall have general charge of its office, superintend its clerical business and perform such other duties as the *commission* [~~board~~] prescribes. He may administer oaths in all parts of the state, where the exercise of that power is properly incidental to the performance of his duties *or* [~~of~~] those of the *commission* [~~board~~].

Section 9. KRS 216B.040 is amended to read as follows:

(1) The *commission* [~~board~~] shall have four (4) separate and distinct functions:

(a) To *approve* [~~issue~~] or deny certificates of need in accordance with the provisions of this chapter. except as to those applications which have been granted nonsubstantive review status *by the chairman*;

(b) To *issue and to* revoke certificates of need;

(c) To *provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify or suspend licenses of health facilities and health services issued by the cabinet* [~~issue, deny, revoke, modify, or suspend licenses or issue provisional licenses in accordance with the provisions of this chapter~~]; and

(d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to *its functions* [~~this chapter~~].

(2) The *commission* [~~board~~] shall:

(a) Issue administrative regulations through the secretary:

1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.

2. *To* establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:

a. Consistency with plans. The proposal should be consistent with the state health plan. Consideration should be given to other applicable appropriately adopted plans developed by local health planning agencies. In case of inconsistency between the state health plan and other plans considered, the state health plan shall prevail. The fact that the state health plan does not address the specific type of proposal being reviewed does not constitute grounds for disapproval of the proposal;

b. Need and accessibility. The proposal should meet an identified need in a defined geographic area and be accessible to all residents of the area;

c. Interrelationships and linkages. The proposal should serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services and efficient functioning of the health care system;

d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, is judged to be an effective and economical use of resources, not only in terms of capital investment, but also in terms of ongoing requirements for health manpower and operational financing;

e. Quality of services. The applicant should be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services; and

f. Special needs and circumstances of health maintenance organizations. In the case of a health maintenance organization or an ambulatory care facility or health facility controlled directly or indirectly by a health maintenance organization, the proposal should be consistent with the special needs and circumstances of health maintenance organizations.

3. [~~To establish licensure standards and procedures to ensure safe, adequate and efficient health facilities and health services. These regulations shall include, but need not be limited to:~~

~~a. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel and minimum standards for maintaining patient records;~~

~~b. Licensure application procedures;~~

~~c. Classification of health facilities and health services according to type, size, range of services and level of care provided; and~~

~~d. Licensure renewal procedures.~~

~~4.~~] To define a substantial change in a project which will require a subsequent review of an approved certificate of need and to establish a procedure for conducting such subsequent review.

(b) Conduct public hearings, as requested, in respect to certificate of need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.

(3) The *commission* [~~board~~] shall have the authority to:

(a) Issue such other administrative regulations through the secretary as are necessary for the proper administration of *its functions* [~~this chapter~~];

(b) [~~Authorize its agents or representatives to enter upon the premises of any health facility for the purpose of inspection, and under such conditions as are set forth in administrative regulations promulgated by the board;~~

~~(c)~~] Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the *commission* [~~board~~], and such process shall extend to all parts of the Commonwealth. Service of process in all proceedings brought before or initiated by the *commission* [~~board~~] may be made by certified mail, or in the same manner as other process in civil cases, as the *commission* [~~board~~] directs;

(c)[~~(d)~~] Establish by administrative regulation reasonable application fees for certificates of need [~~and licenses~~];

(d)[~~(e)~~] Appoint technical advisory committees as are deemed necessary to administer *its functions under* the provisions of this chapter; and

(e)[~~(f)~~] Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need.

Section 10. KRS 216B.042 is amended to read as follows:

(1) The cabinet shall:

(a) *Establish by administrative regulation under KRS Chapter 13A reasonable application fees for licenses and issue other administrative regulations necessary for the proper administration of the licensure function;*

(b) Issue, deny, revoke, modify, or suspend licenses or provisional licenses in accordance with the provisions of this chapter; and

(c) Establish licensure standards and procedures to ensure safe, adequate and efficient health facilities and health services. These regulations, under KRS Chapter 13A, shall include but need not be limited to:

1. Patient care standards and safety standards, minimum operating standards, minimum standards for training, required licenses for medical staff personnel and minimum standards for maintaining patient records;

2. Licensure application and renewal procedures; and

3. Classification of health facilities and health services according to type, size, range of services and level of care [~~Make recommendations to the board concerning actions on certificates of need when applications require formal review;~~

~~(b) Make recommendations to the board concerning the revocation of certificates of need; and~~

~~(c) Make recommendations to the board concerning licenses~~].

(2) The cabinet shall have authority to:

(a) *Approve* [~~Grant or deny nonsubstantive review status of certificate of need applications pursuant to KRS 216B.095; and~~

~~(b) Issue~~] or deny certificates of need, when nonsubstantive review status has been granted, after considering the criteria as established by the *commission* [~~board~~] and staff recommendations and, when applicable, recommendations of the local health planning agency.

(b) Authorize its agents or representatives to enter upon the premises of any health care facility for the purpose of inspection, and under the conditions set forth in administrative regulations promulgated by the commission and the cabinet.

Section 11. KRS 216B.045 is amended to read as follows:

Every order, decision, finding, license or certificate issued or approved by the *commission* [~~board~~] or cabinet under any of the provisions of this chapter shall be in writing and shall be entered on the records of the *commission* [~~board~~] or cabinet.

Section 12. KRS 216B.050 is amended to read as follows:

The *commission* [~~board~~] or cabinet may compel obedience to its lawful orders by mandamus, injunction or other proper proceedings in the Franklin Circuit Court or any other circuit court of competent jurisdiction. Every order entered by the *commission* [~~board~~] or cabinet shall continue in force until the expiration of the time, if any, named by the *commission* [~~board~~] or cabinet in the order, or until revoked or modified.

Section 13. KRS 216B.055 is amended to read as follows:

Notice of decisions and orders made by the *commission* [~~board~~] or cabinet under the provisions of this chapter shall be made by certified mail addressed to the last known address on file with the cabinet or *commission* [~~board~~], or by personal service. Such notice shall be mailed or personal service shall be obtained no later than fifteen (15) working days after the decision or order. Notice shall be complete and effective upon mailing.

Section 14. KRS 216B.061 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall do any of the following without first obtaining a certificate of need:

(a) Establish a new health facility;

(b) Obligate a capital expenditure which exceeds the capital expenditure minimum;

(c) Make a substantial change in the bed capacity of a health facility;

(d) Make a substantial change in a health service;

(e) Acquire major medical equipment;

(f) Alter a geographical area which has been designated on a certificate of need or license;

(g) Transfer an approved certificate of need for the establishment of a new health facility or the replacement of an existing facility.

(2) No person shall separate portions of a single project into components in order to evade any expenditure minimum set forth in this chapter. For purposes of this chapter, the acquisition of one (1) or more items of functionally related diagnostic or therapeutic equipment shall be considered as one (1) project.

(3) No person shall have ex parte contact with any member of the *commission* [~~board~~] regarding a certificate of need application from the commencement of the review cycle to the final decision. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(4) No person shall obligate a capital expenditure in excess of the amount authorized by an existing certificate of need unless he has received an administrative escalation from the *commission* [~~board~~] as prescribed by regulation.

(5) No person shall proceed to obligate a capital expenditure under an approved certificate of need if there has been a substantial change in the project.

(6) A certificate of need is issued for a specific location and, when applicable, for a designated geographical area.

Section 15. KRS 216B.062 is amended to read as follows:

(1) Applications for certificates of need shall be submitted according to timetables established by the *commission* [~~board~~] by administrative regulation. Once an application has been deemed complete pursuant to the *commission's* [~~board's~~] adopted regulations, notice shall be given as provided by the regulations of the beginning of the review, the proposed review schedule, and the right to request a hearing. The review shall be deemed to commence on the date of notice. No review shall take longer than ninety (90) days from the commencement of the review unless the applicant agrees to a deferral of action.

(2) Applications proposing the same or similar types of services, facilities, or equipment shall be batched for review purposes, excluding those granted nonsubstantive review status. The *commission* [~~board~~] shall by regulation establish appropriate batching groups to assure that applications for each type of service, facility, or equipment will be eligible for consideration at set intervals. In each review batch, the *commission* [~~board~~] shall review and, if appropriate, compare all timely filed applications proposing similar types of services, facilities, or equipment in the same health service areas.

Section 16. KRS 216B.065 is amended to read as follows:

(1) Before any person enters into a contractual agreement to acquire an existing health facility which arrangements will require the obligation of a capital expenditure which exceeds the capital expenditure minimum, or to acquire major medical equipment, such person shall notify the *commission* [~~board~~] of the person's intent to acquire such a facility or major medical equipment and of the services to be offered in

the facility and its bed capacity or the use of such medical equipment. The notice shall be in writing and shall be filed at least thirty (30) days prior to entry into a contract to acquire the health facility or major medical equipment with respect to which the notice is given.

(2) A certificate of need shall be required for the acquisition of a health facility or major medical equipment, only if:

(a) The notice required in this section is not filed; or

(b) The *commission* [~~board~~] finds within thirty (30) days after the date it received such notice that the health services or bed capacity of the health facility will be substantially changed in being acquired, or in the case of major medical equipment, the equipment will be used to provide services for inpatients of a health care facility.

(3) Donations and leases of major medical equipment and health facilities shall be considered acquisitions of equipment and facilities, and an acquisition of medical equipment or a facility for less than fair market value shall be considered an acquisition if the fair market value exceeds the expenditure minimum.

(4) Before any health facility reduces or terminates a health service or reduces its bed capacity, the facility shall notify the *commission* [~~board~~] of its intent. The notice shall be in writing and shall be filed at least thirty (30) days prior to the reduction or termination. A certificate of need shall be required for the reduction or termination only if the notice required in this section is not filed.

Section 17. KRS 216B.066 is amended to read as follows:

(1) Before a health facility acquires major medical equipment to be used solely for research, offers a health service solely for research or makes or obligates a capital expenditure solely for research, which exceeds the prescribed minimum, the health facility shall notify the *commission* [~~board~~] of its intent to do so. Such notice shall be in writing and shall be made sixty (60) days prior to the acquisition, offering, or making or obligation of the expenditure with respect to which notice is given. The notice shall state the use to be made of the major medical equipment, health service or capital expenditure.

(2) A certificate of need shall be required for the acquisition of major medical equipment solely for research, the offering of a health service solely for research or the making or obligating of a capital expenditure solely for research by a health facility, only if:

(a) The notice required by this section is not filed; or

(b) The *commission* [~~board~~] finds within sixty (60) days after it receives notice that the project or transaction for which notice is given will affect the charges of the facility for the provision of medical or other patient care services other than services which are included in the research, will substantially change the bed capacity of the facility, or will substantially change the medical or other patient care services of the facility which were offered before the acquisition, offering, making or obligation.

(3) If major medical equipment is acquired, a health service is offered or a capital expenditure is made or obligated and, pursuant to this section, no certificate of need is required, such equipment or service or facilities acquired through the capital expenditure may not be used in a manner which would affect the charges of the facility for the provision of medical or other patient care services other than that included in the research, substantially change the bed capacity of the facility or substantially change the medical or other patient care services of the facility unless a certificate of need is issued.

(4) For purposes of this section, "solely for research" means patient care provided on an occasional and irregular basis and not as part of a research project.

Section 18. KRS 216B.070 is amended to read as follows:

A certificate of need shall not be required of a health maintenance organization for the establishment of a health facility, or the acquisition of major medical equipment, or the obligation of capital expenditures for the provision of a health service except as may be allowed by the federal act or the regulations issued pursuant to the federal act. A health maintenance organization shall file an application for an exemption with the *commission* [~~board~~] pursuant to administrative regulations promulgated by the *commission* [~~board~~].

Section 19. KRS 216B.075 is amended to read as follows:

The *commission* [~~board~~] shall, within ninety (90) days, following the date this chapter becomes effective, promulgate administrative regulations respecting application and review procedures consistent with the federal act and regulations promulgated thereunder.

Section 20. KRS 216B.085 is amended to read as follows:

(1) Any time no later than thirty (30) days after the date the review commences, any affected person may request a public hearing. Hearings shall be before a quorum of the *commission* [~~board~~], or at the request of the chairman, before a *member of the commission* [~~hearing officer~~] designated by the *chairman to serve as hearing officer* [~~secretary,~~] and shall be in addition to any hearing which may have been conducted before a local health planning agency. The hearing officer shall be authorized to administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in such proceedings.

(2) In the event a hearing is requested, the *chairman* [~~executive director~~] shall set a date, time and place for a public hearing. Reasonable notice of the hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the *commission* [~~board~~].

(3) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the matter which is the subject of the hearing and may conduct reasonable cross examination under oath of persons who make factual allegations relevant to such matters. A full and complete record shall be maintained of the hearing, and all testimony shall be reported but need not be transcribed unless the *commission's* [~~board's~~] decision is appealed pursuant to this chapter.

(4) Any decision of the *commission* [~~board~~] to issue or deny a certificate of need shall be based solely on the record established with regard to the matter. All decisions granting, denying or modifying a certificate of need shall be made by the *commission* [~~board~~] in writing and shall be recorded in the minutes of the *commission* [~~board~~]. The *commission* [~~board~~] shall notify the parties to the proceedings of the decision and the decision shall be final for purposes of judicial appeal unless a request for reconsideration is filed. An approved certificate of need shall be issued forty (40) days after notice of the *commission's* [~~board's~~] decision unless a request for reconsideration is filed or a judicial appeal is taken.

Section 21. KRS 216B.086 is amended to read as follows:

(1) The *commission* [~~board~~] may revoke a certificate of need for failure of the holder of the certificate to implement the project in accordance with timetables for implementation established by administrative regulation of the *commission* [~~board~~]. The *commission* [~~board~~] shall give notice to the holder of the certificate of its initial decision to revoke the certificate of need. The *commission's* [~~board's~~] initial decision to revoke a certificate of need shall become final after thirty (30) days unless a hearing is requested. The *chairman* [~~executive director~~] shall give notice to the holder of the certificate of a decision which has become final under the provisions of this subsection.

(2) The holder of the certificate of need to be revoked may request in writing a public hearing in respect to an initial decision by the *commission* [~~board~~] to revoke a certificate of need within thirty (30) days of the date of notice of such initial decision. Failure to request a hearing shall constitute a waiver of any right to reconsideration or judicial appeal of a final *commission* [~~board~~] decision to revoke a certificate of need.

(3) The hearing shall be before the *commission* [~~board~~], or at the request of the chairman, before a *member of the commission* [~~hearing officer~~] designated by the *chairman to be the hearing officer* [~~secretary~~]. The hearing shall be no later than thirty (30) days after the request for the hearing is filed.

(4) In the event a hearing is requested, the *chairman* [~~executive director~~] shall set a date, time and place for a public hearing. Reasonable notice of such hearing shall be given to all affected persons in accordance with administrative regulations promulgated by the *commission* [~~board~~].

(5) At the hearing, any party to the proceedings shall have the right to be represented by counsel and to present oral or written arguments and evidence relevant to the revocation of the certificate of need, and may conduct reasonable cross examination under oath of persons who testify. A full and complete record shall be maintained of the hearing, and all testimony shall be reported but need not be transcribed unless the *commission's* [~~board's~~] final decision is appealed pursuant to this chapter.

(6) After the issuance of an initial decision to revoke a certificate of need and before a final decision is made, no person shall have ex parte contacts with members of the *commission* [~~board~~] regarding the revocation. In the event an ex parte contact occurs, it shall be promptly made a part of the record.

(7) If a hearing is requested after notice of the *commission's* [~~board's~~] initial decision to revoke a certificate of need, the *commission* [~~board~~] shall make a final decision at its next regularly scheduled meeting after the hearing. Any final decision revoking a certificate of need shall be made by the *commission* [~~board~~] in writing and shall be recorded in the minutes of the *commission* [~~board~~]. The *commission* [~~board~~] shall notify the parties to the proceedings of the final decision.

(8) Any final decision of the *commission* [~~board~~] to revoke a certificate of need shall be based solely on the record established with regard to the revocation.

(9) Except as provided in subsection (1) of this section, reconsideration pursuant to KRS 216B.090 or judicial appeal pursuant to KRS 216B.115 is available with regard to a final decision of the *commission* [~~board~~] to revoke a certificate of need.

Section 22. KRS 216B.090 is amended to read as follows:

(1) Any party to the proceedings may, for good cause shown, request in writing a hearing for purposes of reconsideration of a decision of the *commission* [~~board~~] pertaining to a certificate of need or the revocation of a certificate of need under such procedures as are promulgated by administrative regulation. The request shall be filed within fifteen (15) days of the notice of the decision and the *commission* [~~board~~] shall consider the request at its next regularly scheduled meeting. For purposes of this section there shall be deemed to be "good cause shown" if the request for a public hearing:

(a) Presents significant, relevant information not previously available for consideration by the *commission* [~~board~~]; or

(b) Demonstrates that there have been significant changes in the factors or circumstances relied upon by the *commission* [~~board~~] in reaching its decision; or

(c) Demonstrates that the *commission* [~~board~~] has materially failed to follow its adopted procedures in reaching its decision.

(2) If a public hearing is granted, it shall be held within thirty (30) days after the decision to grant the request for reconsideration. The hearing shall be conducted in accordance with the provisions of this chapter. The *commission* [~~board~~] shall make its decision on reconsideration at its next regularly scheduled meeting after the public hearing, and shall give notice thereof. The decision of the *commission* [~~board~~] shall be final for purposes of judicial appeal. An approved certificate of need shall be issued forty (40) days after notice of the *commission's* [~~board's~~] decision unless a judicial appeal is taken.

Section 23. KRS 216B.095 is amended to read as follows:

(1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review as provided below. The *chairman* [~~cabinet~~] shall grant or deny nonsubstantive review status within fifteen (15) days of the date the application is deemed completed and shall give notice to all affected persons of *the* [~~its~~] decision to conduct a nonsubstantive review. Any affected person other than the applicant may request a hearing [~~before the cabinet or its designated hearing officer~~] by filing a request [~~for a hearing~~] with the *commission* [~~cabinet~~] within fifteen (15) days of the [~~cabinet's~~] notice to conduct a nonsubstantive review. As applicable, hearings shall be conducted as provided in KRS 216B.085. Based solely upon the record established with regard to the matter, the cabinet shall *approve* [~~issue~~] or deny a certificate of need on all projects assigned nonsubstantive review status within forty-five (45) days of the determination of nonsubstantive review status. If the application is denied nonsubstantive review status

it will automatically be placed in the formal review process.

(2) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next cycle of the formal review process. Nothing in this subsection shall require an applicant to pursue a formal review before obtaining judicial review pursuant to KRS 216B.115.

(3) The *chairman* [~~cabinet~~] shall grant nonsubstantive review status to an application for a certificate of need which is required:

(a) In emergency circumstances which, if not promptly acted upon, would pose a threat to the health and safety of the patients. Emergency circumstances shall include acts of God, fire, vandalism, structural or mechanical failure and other similar situations. Any applicant acting under this subsection may proceed to relieve circumstances threatening the health and safety of the patients, provided the cabinet is consulted prior to such action and the application is submitted within thirty (30) days of the occurrence of the emergency; or

(b) To eliminate or prevent imminent safety hazards as defined by federal, state, or local fire, building, or life safety codes or regulations; or

(c) To comply with licensure standards; or

(d) To comply with accreditation standards compliance with which is required to receive reimbursements under title XVIII of the Social Security Act or payments under a state plan for medical assistance approved under title XIX of such act; or

(e) To replace or repair worn equipment provided such worn equipment shall have been used by the applicant in a health facility for five (5) years or more; or

(f) To make repairs, alterations or improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in health services, or the addition of equipment. In no event shall repairs, alterations or improvements be construed to mean the replacement or the relocation of a health facility; or

(g) In such other circumstances as the *commission* [~~board~~] may by regulation prescribe.

(4) Notwithstanding any other provision to the contrary in this chapter, the cabinet shall *approve* [~~issue~~] a certificate of need for a project required for the purposes set out in (a) through (d) of subsection (3) hereof unless it finds the facility or service with respect to which such capital expenditure is proposed to be made is not in fact so required; or to the extent the facility or services contemplated by the proposed capital expenditure is addressed in the state health plan, the cabinet finds that such capital expenditure is not consistent with the state health plan.

(5) The decision of the cabinet *approving* [~~issuing~~] or denying a certificate of need pursuant to this section shall be final for purposes of judicial appeal unless the applicant requests the application be placed in the formal review process. An approved certificate shall be issued forty (40) days after notice of the cabinet's decision unless a judicial appeal is taken.

Section 24. KRS 216B.105 is amended to read as follows:

(1) Unless otherwise provided in this chapter, no person shall operate any health facility in this Commonwealth without first obtaining a license issued by the *cabinet* [~~board~~] which license shall specify the kind or kinds of health services the facility is authorized to provide. A license shall not be transferable and shall be issued for a specific location and, if specified, a designated geographical area.

(2) The *cabinet* [~~board~~] shall have the authority to deny, revoke, modify or suspend a license in any case in which it finds that there has been a substantial failure to comply with the provisions of this chapter or the rules and regulations promulgated hereunder. Such denial, revocation, modification, or suspension shall be effected by mailing to the applicant or licensee, by certified mail, a notice setting forth the particular reasons for such action. Such denial, revocation, modification, or suspension shall become final and conclusive

thirty (30) days after notice is given unless the applicant or licensee, within said thirty (30) day period, shall file a request in writing for a hearing *with the commission.*

(3) The hearing shall be before the *commission* [~~board~~], or *before a member of the commission* [~~at the request of the chairman, by a hearing officer~~] designated *to serve as hearing officer* by the *chairman* [~~secretary~~].

(4) If the hearing is before a designated hearing officer, within thirty (30) days from the conclusion of the hearing, the hearing officer shall transmit his findings and recommendations to the *commission* [~~board~~], with a synopsis of the evidence contained in the record and a statement of the basis of his findings. The applicant or licensee shall be entitled to be represented at the hearing in person or by counsel, or both, and shall be entitled to introduce testimony by witnesses or, if the *commission* [~~board~~] so permits, by depositions. A full and complete record shall be kept of all hearings, and all testimony shall be reported but need not be transcribed unless the decision is appealed pursuant to this chapter. The *commission* [~~board~~] may adopt the hearing officer's findings and recommendations or prepare written findings of fact and state the basis for its decision which shall become part of the record of the proceedings.

(5) All decisions revoking, suspending, modifying or denying licenses shall be made by the *commission* [~~board~~] in writing and shall be recorded in the minutes of the *commission* [~~board~~]. The *commission* [~~board~~] shall notify the applicant or licensee of the decision.

(6) The decision of the *commission* [~~board~~] shall be final for purposes of judicial appeal upon notice of the *commission's* [~~board's~~] decision.

Section 25. KRS 216B.115 is amended to read as follows:

(1) An appeal to the Franklin Circuit Court may be taken from any final decision of the *commission* [~~board~~] or cabinet with respect to a certificate of need application, a certificate of need, or a license, by any party to the proceedings.

(2) An appeal may be taken by filing a petition for review in the Franklin Circuit Court within thirty (30) days after notice of the final decision. A request for reconsideration filed pursuant to KRS 216B.090 shall toll the time for filing a judicial appeal until notice of the *commission's* [~~board's~~] decision not to reconsider or notice of its decision on reconsideration is given. The petition shall state completely the grounds upon which the review is sought and shall assign all errors relied upon. The petitioner shall serve a copy of the petition to each person who was a party to the proceedings. Summons shall be issued upon the petition directing the adverse party or parties to file an answer within twenty (20) days after service of summons. The *commission* [~~board~~] or cabinet shall, upon being served with the summons and within thirty (30) days thereafter, file a copy of the record, duly certified by the cabinet or the *chairman* [~~executive director~~] of the *commission* [~~board~~], the cost of the record to be taxed as costs upon appeal. In lieu of filing of such record an abstract thereof may be filed if all parties to the appeal agree.

Section 26. KRS 216B.120 is amended to read as follows:

(1) Each party to the proceedings may participate as a party in the proceedings in the circuit court on an appeal.

(2) In case of an appeal, no new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the decision or order; the court shall hear the case upon the certified record or abstract thereof, and shall dispose of the case in a summary manner, its review being limited to determining whether the *commission* [~~board~~] or cabinet acted within its jurisdiction, whether the decision or order was procured by fraud, and whether the findings of fact in issue are supported by substantial evidence and are not clearly erroneous based upon a review of the record as a whole.

(3) The court shall enter judgment affirming, modifying, reversing or setting aside the decision or, in its discretion, remanding the case to the *commission* [~~board~~] or cabinet for proceedings in conformity with the directions of the court.

(4) Any party to the judicial appeal may appeal from the circuit court to the Court of Appeals in accordance with the Kentucky Rules of Civil Procedure.

Section 27. KRS 216B.125 is amended to read as follows:

In the event the cabinet or *commission* [~~board~~] fails to issue or deny a certificate of need or an exemption pursuant to this chapter within the time prescribed under this chapter or administrative regulations promulgated by the *commission* [~~board~~], the applicant may seek judicial enforcement of this chapter by filing a civil action in Franklin Circuit Court.

Section 28. KRS 216B.130 is amended to read as follows:

Any other provisions of this chapter notwithstanding, any expenditure minimum or limit as provided in this chapter shall be adjusted for each twelve (12) month period beginning twelve (12) months after July 15, 1980 to reflect the changes in the preceding twelve (12) month period in a cost index designated by regulation for the purposes of making such adjustment. The *commission* [~~board~~] shall effect such adjustment by administrative regulations.

Section 29. The General Assembly hereby confirms the reorganization of the cabinet for human resources effected by Executive Order 86-366, issued May 16, 1986, to the extent that it is not otherwise confirmed by this Act.

SCR 68, A CONCURRENT RESOLUTION directing the Legislative Research Commission to appoint a special subcommittee on state purchasing of the Legislative Program Review and Investigations Committee.

WHEREAS, the revenue estimates for the 1988-1990 biennium are projecting a severe budgetary shortfall; and

WHEREAS, hundreds of millions of taxpayers' dollars are spent by state agencies of the executive branch in the purchase of commodities and services; and

WHEREAS, it is the responsibility of the General Assembly of the Commonwealth of Kentucky to identify areas of savings of taxpayers' dollars and to assure that these dollars are well spent;

NOW, THEREFORE,

Be it resolved by the Senate of the General Assembly of the Commonwealth of Kentucky, the House of Representatives concurring therein:

Section 1. That the Legislative Research Commission is directed to appoint a Special Subcommittee on State Purchasing of the Legislative Program Review and Investigations Committee to study state purchasing. The subcommittee shall conduct research and hold hearings to determine whether the state's purchasing procedures permit specifications restricting competitive bidding, to determine whether state agencies are using reasonable discretion in specifications for the purchase of services and commodities in consideration of the use of the product or service, and to determine whether the cost of the contract awarded is the best price the state can reasonably expect to obtain.

Section 2. That the Special Subcommittee on State Purchasing shall consist of seven (7) members, including four (4) members from the House of Representatives and three (3) members from the Senate. At least one (1) member from each house shall be from the minority party. The Legislative Research Commission shall appoint a chairman from the membership of the Special Subcommittee.

Section 3. That a report of the findings of the Special Subcommittee on State Purchasing, together with recommendations, shall be made to the Legislative Research Commission by November 1, 1989, for consideration by the 1990 General Assembly.

Section 4. That the Special Subcommittee on State Purchasing shall expire upon submission of its report and recommendations to the Legislative Research Commission.

Section 5. Staff services to be utilized in conducting this research are estimated to cost $20,000 in fiscal year 1988-1989 and $20,000 in fiscal year 1989-1990. These services shall be provided from the regular Commission budget.

Calendar

SJR 50, HB 756, HB 838, HB 1011, HJR 123, SB 154, HB 634, HB 980, HJR 129, HCR 131, SB 55, HB 886, SB 158, SB 273, HB 987, HB 183, HB 490, HB 699, HB 700, HB 963, HB 990, HB 1013, HCR 109, HCR 110, SB 121, SB 145, SB 192, SB 237, SB 270, SCR 69, HB 896, HB 864, and **HB 989** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Consent Calendar

HB 358, HB 791, HB 753, and **HB 853** taken from the Consent Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report on Enrolled Bills

The Committee on Enrollment reported **HB 223, HB 410,** and **HB 437** had been examined and found correctly enrolled. Said Bills read at length, compared and signed in open session by the Speaker. Ordered delivered to the Senate. (Time - 10:17 a.m.)

HB 223, HB 410, and **HB 437** delivered to the Senate, signed by the President. Ordered delivered to the Governor.

Orders of the Day

HB 811 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Long moved that **HB 811** be passed.

On the roll call the vote was: Yeas 88, Nays 0. (See March 18, 1988 roll call on **HB 811** - Appendix A.)

HB 811 was passed and the title agreed to.

Representative Long moved that the vote by which **HB 811** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 534 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved that **HB 534** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18, 1988 roll call on **HB 534** - Appendix A.)

HB 534 was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 534** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 706, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gray moved the adoption of Committee Amendment No. 1 to **HB 706**.

On the roll call the vote was yeas 50-Ackerson, Adkins, Allen, Altman, Ballard, Blevins, J. Brown, Bruce, Burch, Callahan, Castleman, L. Clark, P. Clark, Curd, Cyrus, Donnermeyer, Farrow, Ford, Gedling, Geveden, Gray, Hoover, Hourigan, Jackson, A. Jones, Keith, Kerr, Layman, LeMaster, Little, Long, Lundergan, Maggard, McBee, McElroy, Meyer, Morris, Noe, Noland, Northup, Overstreet, Preston, Pritchett, B. Richardson, Ridley, Seum, Siler, R. Smith, Worthington, Yates. Nays 37-Adams, Ark, Arnold, Barrows, Bronger, Casebier, Clarke, Cline, Crupper, Freibert, Gregory, Guenthner, Hancock, Handy, J. Harper, K. Harper, Hatcher, Heleringer, R. Jones, T. Jones, Lear, Lile, Lyne, Mack, Mason, Moberly, Nett, O'Brien, Rapier, Reinhardt, Richards, Scorsone, B. Smith, Strong, Turner, Walker, Will.

Committee Amendment No. 1 to **HB 706** was adopted.

Representative Morris moved the adoption of Floor Amendment No. 3 to **HB 706**. Rejected.

Representative Gray moved that 706, as amended, be passed.

On the roll call the vote was: Yeas 52, Nays 44. (See March 18, 1988 roll call on **HB 706** - Appendix A.)

HB 706, as amened, was passed and the title agreed to.

Representative Gray moved that the vote by which **HB 706**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 788, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Richards moved the adoption of the Floor Amendment No. 2 to **HB 788**. Agreed.

Representative Richards moved that **HB 788**, as amended, be passed.

On the roll call the vote was: Yeas 97, Nays 1. (See March 18, 1988 roll call on **HB 788** - Appendix A.)

HB 788, as amended, was passed and the title agreed to.

Representative Richards moved that the vote by which **HB 788**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 907, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of the Floor Amendment No. 1 to **HB 907**. Agreed.

Representative Callahan moved that **HB 907**, as amended, be passed.

On the roll call the vote was: Yeas 83, Nays 6. (See March 18, 1988 roll call on **HB 907** - Appendix A.)

HB 907, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 907**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 725 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved that **HB 725** be passed.

On the roll call the vote was: Yeas 91, Nays 0. (See March 18, 1988 roll call on **HB 725** - Appendix A.)

HB 725 was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 725** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 620, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Jones moved the adoption of Committee Amendment No. 1 to **HB 620**. Agreed.

Representative R. Jones moved that **HB 620**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 2. (See March 18, 1988 roll call on **HB 620** - Appendix A.)

HB 620, as amended, was passed and the title agreed to.

Representative R. Jones moved that the vote by which **HB 620**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 704, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hatcher moved the adoption of Committee Amendment No. 1 to **HB 704**. Agreed.

Representative Hatcher moved that **HB 704**, as amended, be passed.

On the roll call the vote was: Yeas 94, Nays 0. (See March 18, 1988 roll call on **HB 704** - Appendix A.)

HB 704, as amended, was passed and the title agreed to.

Representative Hatcher moved that the vote by which **HB 704**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 988 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative K. Harper moved that **HB 988** be passed.

On the roll call the vote was: Yeas 95, Nays 0. (See March 18, 1988 roll call on **HB 988** - Appendix A.)

HB 988 was passed and the title agreed to.

Representative K. Harper moved that the vote by which **HB 988** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 875, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crupper moved the adoption of Floor Amendment No. 3 to **HB 875**. Agreed.

Representative Cline moved the adoption of the Floor Amendment No. 1 to **HB 875**. Agreed.

Representative Crupper moved that **HB 875**, as amended, be passed.

On the roll call the vote was: Yeas 92, Nays 1. (See March 18, 1988 roll call on **HB 875** - Appendix A.)

HB 875, as amended, was passed and the title agreed to.

Representative Crupper moved that the vote by which **HB 875**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 424, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 424**. Agreed.

Representative Clarke moved that **HB 424**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 97, Nays 0. (See March 18, 1988 roll call on **HB 424** - Appendix A.)

HB 424, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 424**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 423, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 423**. Agreed.

Representative Clarke moved that **HB 423**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 98, Nays 0. (See March 18, 1988 roll call on **HB 423** - Appendix A.)

HB 423, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 423**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 516, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Clarke moved the adoption of Committee Substitute to **HB 516**. Agreed.

Representative Clarke moved that **HB 516**, by way of Committee Substitute, be passed.

Representative Hancock moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 516**. Rejected.

Representative Farrow moved the adoption of the Floor Amendment No. 2 to the Committee Substitute to **HB 516**.

On the roll call the vote was yeas 28-Adkins, Ballard, Bronger, J. Brown, M. Brown, Cline, Crupper, Deskins, Farrow, Guenthner, J. Harper, Hourigan, Jackson, Keith, Lear, LeMaster, Lundergan, Mack, Maggard, Napier, Overstreet, Preston, Pritchett, Ridley, Robinson, Scorsone, R. Smith, Strong. Nays 64-Ackerson, Adams, Allen, Altman, Ark, Barrows, Blandford, Blevins, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Curd, Donnermeyer, Freibert, Gedling, Geveden, Gray, Gregory, Hancock, Handy, K. Harper, Hatcher, Heleringer, Johnson, A. Jones, R. Jones, T. Jones, Kerr, Layman, Lile, Little, Long, Lyne, Mason, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, Northup, O'Brien, Priddy, Rapier, Reinhardt, Richards, B. Richardson, Riner, Seum, Siler, B. Smith, Stumbo, Turner, Walker, White, Will, Worthington, Yates.

Floor Amendment No. 2 to the Committee Substitute to **HB 516** was rejected.

Representative Farrow moved the adoption of the Floor Amendment No. 6 to the Committee Substitute to **HB 516**.

On the roll call the vote was yeas 6-Farrow, Gregory, Guenthner, K. Harper, LeMaster, Lundergan. Nays 86-Ackerson, Adams, Adkins, Allen, Altman, Ark, Ballard, Barrows, Blandford, Blevins, Bronger, J. Brown, M. Brown, Bruce, Burch, Callahan, Casebier, Castleman, L. Clark, P. Clark, Clarke, Cline, Crupper, Curd, Deskins, Donnermeyer, Ford, Freibert, Gedling, Geveden, Gray, Hancock, Handy, J. Harper, Hatcher, Heleringer, Hourigan, Jackson, Johnson, R. Jones, T. Jones, Keith, Kerr, Layman, Lear, Lefevers, Lile, Little, Long, Lyne, Mack, Maggard, Mason, McBee, McElroy, Meyer, Moberly, Morris, Napier, Nett, Noe, Northup, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Reinhardt, Richards, B. Richardson, Ridley, Riner, Robinson, Scorsone, Seum, Siler, B. Smith, Strong, Stumbo, Todd, Turner, Walker, White, Will, Yates.

Floor Amendment No. 6 to the Committee Substitute to **HB 516** was rejected.

Representative K. Harper moved the adoption of the Floor Amendment No. 8 to the Committee Substitute to **HB 516** Rejected.

Representative Yates moved the adoption of the Floor Amendment No. 5 to the Committee Substitute to **HB 516** Rejected.

Representative Siler moved the adoption of the Floor Amendment No. 12 to the Committee Substitute to **HB 516**. Rejected.

Representative Freibert moved the adoption of the Floor Amendment No. 24 to the Committee Substitute to **HB 516**. Rejected.

Representative Freibert moved the adoption of the Floor Amendment No. 23 to the Committee Substitute to **HB 516**. Rejected.

Representative Freibert moved the adoption of the Floor Amendment No. 21 to the Committee Substitute to **HB 516**. Rejected.

Representative Reinhardt moved the adoption of the Floor Amendment No. 11 to the Committee Substitute to **HB 516**. Rejected.

Representative Guenthner moved the adoption of the Floor Amendment No. 20 to the Committee Substitute to **HB 516**.

On the roll call the vote was yeas 26-Ackerson, Allen, Casebier, Cline, Cyrus, Deskins, Freibert, Gray, Guenthner, J. Harper, K. Harper, Heleringer, Hoover, Jackson, Keith, Lear, Lefevers, Lile, Mason, Reinhardt, Robinson, Siler, Todd, Turner, Walker, Will. Nays 55-Adams, Adkins, Altman, Ark, Arnold, Ballard, Barrows, Blandford, Blevins, M. Brown, Burch, Callahan, Castleman, L. Clark, P. Clark, Clarke, Crupper, Curd, Donnermeyer, Farrow, Geveden, Gregory, Hancock, Hourigan, Johnson, A. Jones, Kerr, Little, Long, Lyne, Mack, Maggard, McBee, McElroy, Meyer, Moberly, Morris, Nett, Noe, O'Brien, Overstreet, Preston, Priddy, Pritchett, Rapier, Richards, B. Richardson, Ridley, Scorsone, Seum, B. Smith, Strong, Stumbo, White, Worthington.

Floor Amendment No. 20 to the Committee Substitute to **HB 516** was rejected.

Representative Clarke moved that **HB 516**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 72, Nays 27. (See March 18, 1988 roll call on **HB 516** - Appendix A.)

HB 516, by way of Committee Substitute, was passed and the title agreed to.

Representative Clarke moved that the vote by which **HB 516**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 1022, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative B. Smith moved the adoption of Committee Substitute to **HB 1022**. Agreed.

Representative B. Smith moved the adoption of the Floor Amendment No. 3 to the Committee Substitute to **HB 1022**. Agreed.

Representative Lear moved the adoption of the Floor Amendment No. 1 to the Committee Substitute to **HB 1022**. Rejected.

Representative B. Smith moved that **HB 1022**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: Yeas 74, Nays 21. (See March 18, 1988 roll call on **HB 1022** - Appendix A.)

HB 1022, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative B. Smith moved that the vote by which **HB 1022**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 630, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Scorsone moved the adoption of the Floor Amendment No. 2 to **HB 630**. Rejected.

Representative Stumbo moved that **HB 630** be passed.

On the roll call the vote was: Yeas 95, Nays 3. (See March 18, 1988 roll call on **HB 630** - Appendix A.)

HB 630 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 630** was passed be reconsidered and said motion

be placed on the table. Agreed.

HB 584, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved the adoption of Committee Substitute to **HB 584**. Agreed.

Representative Napier moved that **HB 584**, by way of Committee Substitute, be passed.

On the roll call the vote was: Yeas 84, Nays 7. (See March 18, 1988 roll call on **HB 584** - Appendix A.)

HB 584, by way of Committee Substitute, was passed and the title agreed to.

Representative Napier moved that the vote by which **HB 584**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that when the House adjourns, it do so by voice vote. Agreed.

Recess

Representative Stumbo moved that the House recess for five minutes for a meeting of the Committee on Rules. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Motions, Petitions and Communications (continued)

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 173, by Representatives Ford, Napier, Robinson, Altman, Noland, Hoover, Todd, Siler, Turner, Keith and Lefevers: A RESOLUTION honoring Don Walker.

HR 174, by Representatives Stumbo, K. Harper and Ridley: A RESOLUTION honoring Colonel C. E. Hodgin.

HR 175, by Representatives Blevins: A RESOLUTION honoring Mabel Williams Barber as the "Kentucky Mother of the Year".

Report of Committees

The Committee on Natural Resources and Environment reported **HB 631** with Committee Amendment attached thereto, **HB 920**, **HJR 122** with Committee Substitute and Committee Amendment attached thereto, **SB 258**, and **SJR 44** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 631, AN ACT relating to asbestos and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

For the purpose of adopting the Asbestos Hazard Emergency Response Act, called AHERA, of 1986, Public Law (99-519), the department of environmental protection, division of air quality may develop, adopt, and maintain a comprehensive statewide asbestos contractor accreditation program that shall replicate the federal environmental protection agency model plan issued April 30, 1987. The program shall include but not be limited to:

(a) Identifying and controlling asbestos hazards in public and private schools, grades K-12;

(b) Providing for training and accreditation of asbestos inspectors, management planners, abatement project designers, abatement contractors, supervisors, and abatement workers; and

(c) Accommodating inspection of schools for asbestos hazards, and the development and review of schools' asbestos management plans.

SECTION 2. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The cabinet may charge a fee necessary to recover all costs incurred by the implementation and operation of the accreditation program required under this section.

Section 3. KRS 224.994 is amended to read as follows:

(1) Any person who violates KRS 224.060, 224.140, 224.330 or who fails to perform any duties imposed by these sections, or who violates any determination, permit, rule, regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of ten thousand dollars ($10,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(2) Any person who violates subsections (2), (3), (4), or (5) of KRS 224.032, or KRS 224.835, 224.842, or any provision of this chapter relating to noise, or who fails to perform any determination, permit, rule, regulation or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(3) (a) Any person who shall knowingly violate any of the provisions of this chapter relating to noise or any determination or order of the cabinet promulgated pursuant to those sections which have become final shall be punished by a fine of not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) or by imprisonment for a term of not more than one (1) year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(b) For violations by motor vehicles, the fine shall be not less than ten dollars ($10) nor more than fifty dollars ($50) for a first offense, and not less than fifty dollars ($50) nor more than one hundred dollars ($100) for each subsequent offense.

(4) Any person who knowingly or with criminal negligence violates KRS 224.060, 224.140, 224.835, 224.330, 224.842 or any determination, permit, rule, regulation or order of the cabinet promulgated pursuant to those sections which have become final or who knowingly provides false information in any document filed or required to be maintained under this chapter or who knowingly renders inaccurate any monitoring device or method shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not less than one thousand dollars ($1,000) nor more than fifteen thousand dollars ($15,000) or by imprisonment for a term of not more than one year or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(5) Should any person engage in generation, treatment, storage, transportation, or disposal of hazardous waste in violation of the hazardous waste management provisions of this chapter or contrary to a permit, order, or rule issued or promulgated under this chapter or fail to provide information or to meet reporting requirements required by terms and conditions of a permit or regulations promulgated pursuant to this chapter, the secretary may issue an order requiring compliance within a specified time period or may commence a civil action in a court of appropriate jurisdiction. The violator shall be liable for a civil penalty not to

exceed the sum of twenty-five thousand dollars ($25,000) for each day during which such violation continues, and in addition, may be enjoined from continuing such violations in a court of appropriate jurisdiction.

(6) Any person who knowingly is engaged in generation, treatment, storage, transportation or disposal of hazardous waste in violation of this chapter, or contrary to a permit, order, or regulation issued or promulgated under this chapter or knowingly makes a false statement, representation, or certification in an application for or form pertaining to a permit or in a notice or report required by the terms and conditions of an issued permit, shall be guilty of a felony and upon conviction thereof shall be punished by a fine not to exceed twenty-five thousand dollars ($25,000) for each day of violation or by imprisonment for a term of not less than one (1) year and not more than five (5) years or by both fine and imprisonment for each separate violation. Each day upon which such violation occurs shall constitute a separate violation.

(7) Nothing contained in subsections (4) or (5) of this section shall abridge the right of any person to recover actual compensatory damages resulting from any such violation.

(8) Any person who violates any provision of this chapter to which no express penalty provision applies, except as provided in KRS 211.995, or who fails to perform any duties imposed by those sections, or who violates any determination or order of the cabinet promulgated pursuant thereto shall be liable for a civil penalty not to exceed the sum of one thousand dollars ($1,000) for said violation and an additional civil penalty not to exceed one thousand dollars ($1,000) for each day during which such violation continues, and in addition, may be concurrently enjoined from any such violations as hereinafter provided in this section and KRS 224.995.

(9) The Franklin Circuit Court shall hold concurrent jurisdiction and venue of all civil, criminal, and injunctive actions instituted by the cabinet or by the attorney general on its behalf for the enforcement of the provisions of this chapter or the orders, rules, and regulations of the cabinet promulgated pursuant thereto.

(10) Any person who deposits leaves, clippings, prunings, garden refuse or household waste materials in any litter receptacle except with permission of the owner of such receptacle or who places litter into a receptacle in such a manner that the litter may be carried away or deposited by the elements upon any property or water not owned by him is guilty of a Class B misdemeanor.

(11) In addition to or in lieu of the penalties set forth in this section or in KRS Chapters 532 and 534, any person found guilty of a second or subsequent offense related to littering may be ordered by the court to pick up litter for not less than four (4) hours.

(12) Any person who violates a provision of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools shall be liable to the Commonwealth of Kentucky for a civil penalty in an amount not to exceed twenty-five thousand dollars ($25,000) for each violation. Each day a violation continues shall, for purposes of this subsection, constitute a separate violation of provisions of this chapter relating to accreditation requirements for asbestos abatement professionals performing asbestos abatement activities in schools.

Section 4. Whereas it is necessary for the cabinet to have completed their accreditation program by July, 1988 in accordance with the federally mandated timetable, an emergency is declared to exist, and this Act shall become effective upon its passage and approval by the governor.

The Committee Amendment No. 1 to **HB 631** is as follows:

Amend printed copy of **HB 631** on page 7, line 6, after "Section 4." insert the following:

"A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:"

"Notwithstanding any statute or regulation to the contrary, the facilities of those entities defined in KRS 278.010(3), shall be required to comply solely with the National Emission Standards for Asbestos, of the United States Environmental Protection Agency and applicable rules and regulations of the United States Occupational Safety and Health Administration, and the Kentucky Occupational Safety and Health Standards Board, for purposes of asbestos abatement or removal.

SECTION 5."

HB 920. AN ACT relating to solid waste management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 109.041 is amended to read as follows:

(1) In addition to all other powers enumerated in Chapter 67 and other sections of the Kentucky Revised Statutes, counties, acting by and through their fiscal courts, may plan, initiate, acquire, construct and maintain solid waste management facilities and promulgate rules and regulations with respect thereto in accordance with this chapter. It is hereby determined and declared that in the implementation, acquisition, financing and maintenance of solid waste management facilities, and in the enforcement of their use, counties will be performing state functions duly delegated to them for the public welfare. In such regard, the right of counties to condemn land necessary for the acquisition of solid waste management facilities pursuant to the Eminent Domain Act of Kentucky and to exercise the police power in respect thereto is confirmed. Any county may contract with third parties for the management by public or private means of solid waste within the county.

(2) No sanitary landfill shall be acquired and constructed until the construction thereof has been approved in writing by the department. Planning for sanitary landfills shall be conducted only in accordance with the policy set forth in KRS 109.011(7).

(3) Except as provided in KRS 109.062, no county or waste management district shall prohibit or otherwise restrict the resource recovery of materials by:

(a) Any resource recovery operation in existence in the county or district on the effective date of the mandatory program; or

(b) Any person supplying material to resource recovery operations on the effective date of the mandatory program; or

(c) Any new resource recovery operation that reclaims the same type of materials as resource recovery operations included in paragraph (a) of this subsection; or

(d) Any new suppliers to resource recovery operations included in paragraphs (a) and (c) of this subsection; or

(e) Any resource recovery operation for glass, plastic or metal beverage containers, unless a commitment has been made by a local government or other political subdivision of the state, by ordinance or contract, to a solid waste project consistent with the provisions of this chapter, that is dependent upon the resource recovery of glass, plastic or metal beverage containers to meet its financial obligations for said project, and such commitment has been made prior to the operation of any other such resource recovery facility in the county or district; or

(f) Any other resource recovery operation within the county or district not included in paragraphs (a) through (e) of this subsection or the supply of materials to such operation unless it is established that such operation would jeopardize the ability of a local government or other political subdivision of the state to meet financial obligations incurred in the maintenance, operation, or amortization of capital acquisition costs for a solid waste management facility.

(4) Notwithstanding any other provision of the Kentucky Revised Statutes to the contrary, no county or waste management district shall regulate special wastes as defined in KRS 224.868 or solid waste from agricultural or mining operations.

(5) Any county undertaking the planning, implementation, construction, installation, acquisition and financing of a solid waste management facility pursuant to this chapter shall have the authority set forth in Chapter 58 of the Kentucky Revised Statutes concerning the financing of such solid waste management facility including the authority to promulgate, enforce and collect reasonable rates, rentals and charges for the use of such solid waste management facility.

(6) Bonds authorized to be issued by any county pursuant to the authority of this chapter for the financing of solid waste management facilities may be sold at either private or public sale as may in the sound discretion of the county be in the best interests of the county.

(7) Any county undertaking solid waste management pursuant to the provisions of this chapter may contract with any person for the provision of solid waste management services. A county may contract with any city to provide solid waste management services or may delegate the responsibility for solid waste management within incorporated areas to a city when the city agrees to assume such responsibility. In connection with solid waste management, any county may enter into contracts with any person for any term of years.

(8) Counties are authorized to charge a reasonable fee to haulers for the handling of their waste at a solid waste management facility approved by the department.

(9) Counties are authorized to sell or market materials and energy recovered from solid waste and to enter into long-term contracts guaranteeing supply to insure markets for the sale of recovered products.

(10) In carrying out the provisions of this chapter, counties shall be subject to standards set by regulations promulgated by the department on waste management pursuant to KRS Chapter 224.

(11) No county or waste management district shall prohibit long-term contracts by ordinance or other means.

(12) Counties are expressly authorized in addition to the powers enumerated in KRS Chapter 65 and this chapter to contract with one another in order to regionalize solid waste management to the maximum extent practicable.

(13) Notwithstanding any other provision of law, a fiscal court may, by ordinance, create a solid waste district to exercise the powers of the county pursuant to this chapter, except that a district created for this purpose shall not levy or collect ad valorem property taxes.

HJR 122, A JOINT RESOLUTION directing Morehead State University to establish a task force on the forest products industry and making an appropriation therefor.

WHEREAS, Kentucky produces annually over six hundred million (600,000,000) board feet of lumber but ships almost three-fourths of this production out of state to be further processed; and

WHEREAS, forestry experts estimate that, with proper investment, Kentucky's forest products industry could be increased from seven hundred and seventy-three million dollars ($773,000,000) in annual sales to as much as three billion dollars ($3.000,000,000); and

WHEREAS, by developing Kentucky's forest resources and forest products, a strong and stable economic development program could thus be created for Kentucky's rural areas; and

WHEREAS, Morehead State University, at the direction of the 1986 General Assembly, has begun a planning process to bring needed expansion to the forest products industry;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the President of Morehead State University be directed to establish and appoint the membership of a Forest Products Industry Task Force. Membership shall include, but not be limited to, representatives from: the general assembly; state forestry, commerce, energy, tourism and agricultural agencies; local governments; the University of Kentucky's department of forestry; and the forest products industry. However, membership shall not exceed twenty members. The President of Morehead State University shall appoint from the task force membership a chairperson and a vice-chairperson.

Section 2. That members of the task force shall not be paid for their services but shall be reimbursed for their expenses in attending task force meetings.

Section 3. That all state agencies shall report to the task force any information requested.

Section 4. That the President of Morehead State University shall appoint a director to provide staff services to the task force. Duties of the director shall include organizing meetings, conducting research, and coordinating any research activities requested of other agencies.

Section 5. That the charge of the task force shall include, but not be limited to, the following:

(1) To evaluate information state agencies have currently on the forest products industry and identify any data needs;

(2) To complete a targeted investment and marketing strategy five-year plan for expansion of the forest products industry;

(3) To promote public involvement in the planning process through the sponsorship of regional meetings and at least one state-wide conference on economic development through forest products.

Section 6. That the task force shall submit its report, including the five-year plan for expansion of the industry, any findings, recommendations, and legislative proposals to the Legislative Research Commission no later than September 1, 1989. The Legislative Research Commission shall then submit the report to the appropriate interim committee for review.

Section 7. That there is hereby appropriated to Morehead State University the sum of seventy-four thousand dollars ($74,000) for expenses relating to the task force for fiscal year 1988-89. Any unexpended balance shall not lapse, but shall carry forward to fiscal year 1989-90.

The Committee Substitute to **HJR 122** is as follows:

HJR 122. A JOINT RESOLUTION directing Morehead State University to establish a task force on the forest products industry and making an appropriation therefor.

WHEREAS, Kentucky produces annually over six hundred million (600,000,000) board feet of lumber but ships almost three-fourths of this production out of state to be further processed; and

WHEREAS, forestry experts estimate that, with proper investment, Kentucky's forest products industry could be increased from seven hundred and seventy-three million dollars ($773,000,000) in annual sales to as much as three billion dollars ($3,000,000,000); and

WHEREAS, by developing Kentucky's forest resources and forest products, a strong and stable economic development program could thus be created for Kentucky's rural areas; and

WHEREAS, Morehead State University and the Commerce Cabinet, at the direction of the 1986 General Assembly, have begun a planning process to bring needed expansion to the forest products industry;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Secretary of the Commerce Cabinet be directed to establish and appoint the membership of a Forest Products Industry Task Force. Membership shall include, but not be limited to, representatives from: the general assembly; state forestry, commerce, energy, tourism and agricultural agencies; local governments; the University of Kentucky's department of forestry; and the forest products industry. However, membership shall not exceed twenty members. The Secretary of the Commerce Cabinet shall appoint from the task force membership a chairperson and a vice-chairperson.

Section 2. That members of the task force shall not be paid for their services but shall be reimbursed for their expenses in attending task force meetings.

Section 3. That all state agencies shall report to the task force any information requested.

Section 4. That the Commerce Cabinet shall provide staff and other administrative services to the task force. The Commerce Cabinet is strongly urged to employ the resources of Morehead State University in conducting research, and coordinating other research activities for the task force.

Section 5. That the charge of the task force shall include, but not be limited to, the following:

(1) To evaluate information state agencies have currently on the forest products industry and identify any data needs;

(2) To complete a targeted investment and marketing strategy five-year plan for expansion of the forest products industry;

(3) To promote public involvement in the planning process through the sponsorship of regional meetings and at least one state-wide conference on economic development through forest products.

Section 6. That the task force shall submit its report, including the five-year plan for expansion of the industry, any findings, recommendations, and legislative proposals to the Legislative Research Commission no later than September 1, 1989. The Legislative Research Commission shall then submit the report to the appropriate interim committee for review.

Section 7. For expenses relating to the task force and for any contractual expenses incurred with Morehead State University, the Commerce Cabinet is directed to allocate up to $50,000 in fiscal year 1988-89 and $50,000 in fiscal year 1989-90 from its appropriations for each year to implement this resolution.

The Committee Title Amendment to **HJR 122** is as follows:

Amend printed copy of HCS for **HJR 122** by deleting the title and substituting therefore the following:

"A Joint Resolution directing the Commerce Cabinet, in cooperation with Morehead State University, to establish a task force on the forest products industry."

SB 258, AN ACT relating to surface coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.093 is amended to read as follows:

(1) As determined by regulations of the cabinet, time and distance limits shall be established requiring backfilling, grading and planting to be kept current, such that all reclamation efforts proceed in an environmentally sound manner and as contemporaneously as practicable under regulations promulgated by the cabinet. All backfilling and grading shall be completed before necessary equipment is moved from the operation; provided however that the cabinet may for good cause approve the moving of equipment before all backfilling and grading is completed.

(2) (a) The cabinet may allow an operator to defer the time criteria of contemporaneous reclamation requirements on specified areas if the operator can demonstrate that said deferment is necessary to address at least one (1) of the following:

1. Adverse condition including weather, labor and other conditions clearly beyond the operator's control;

2. Other bona fide mining operations carried out on a strip mined area, pursuant to KRS 350.080;

3. Coal marketing problems.

(b) Application for a deferment pursuant to this section shall be in the form prescribed by the cabinet.

The applicant has the burden in establishing the need for such deferment. The applicant must demonstrate that reclamation on the site is contemporaneous as of the date of the request for deferment and that distance requirements for contemporaneous reclamation will be met during the period of the deferment. Approval of the deferment request shall be made in writing. The approval shall state that the deferment is justified and that no environmental damage will occur during the period of deferment. Reclamation deferments may be approved for a period reasonably related to the specified conditions justifying the deferment, but in no event shall the aggregate deferral period exceed thirty (30) months, nor shall the deferral extend beyond the expiration date of the permit. The cabinet shall periodically reexamine and update the amount of the bond on the permit area so that the amount of the bond is sufficient to assure completion of reclamation if the work had to be performed by the cabinet in the event of forfeiture.

(3) If the operator or other person desires to conduct drift mining or other underground mining upon the premises or use the openings for haulageways or other lawful purposes, the operator may designate locations to be used for such purposes at which places it will not be necessary to backfill as herein provided for until such drift or other underground mining or other use is completed, during which time the bond on file for that portion of the operation shall not be released. That portion of such locations shall be described and designated on the map attached thereto; provided, that where the operator or other person wishes to combine surface operations with underground mining operations to assure maximum practical recovery of coal resources, the cabinet may grant a variance, pursuant to regulations promulgated by the cabinet, for specific areas within the reclamation plan from the requirement that reclamation efforts proceed pursuant to subsection (1) of this section so as to permit underground mining operations prior to reclamation.

(4) The cabinet may release in whole or in part the reclamation bond or deposit for a particular operation if the cabinet is satisfied that the reclamation covered by the bond or deposit or portion thereof has been accomplished as required by this chapter. Such bond releases shall be made in accordance with the following schedule:

(a) When the operator completes the backfilling, regrading, and drainage control of a bonded area in accordance with his approved reclamation plan, the release of sixty percent (60%) of the bond or collateral for the applicable permit area.

(b) After revegetation has been established on the regraded mined lands in accordance with the approved reclamation plan. When determining the amount of bond to be released after successful revegetation has been established, the cabinet shall retain that amount of the bond for the revegetated area which would be sufficient for a third party to cover the cost of reestablishing revegetation; such amount shall be retained for the period specified for operator responsibility for reestablishing revegetation. No part of the bond or deposit shall be released under this subsection so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of requirements set by this chapter or until soil productivity for prime farm lands has returned to levels of yield equivalent to those of unmined land of the same soil type in the surrounding area under equivalent management practices as determined from such soil surveys as may be required to be included in the permit application. Where a sedimentation pond is to be retained as a permanent impoundment, the portion of bond may be released under this subsection so long as provisions for sound future maintenance by the operator or the landowner have been made with the cabinet.

(c) When the operator has completed successfully all surface coal mining and reclamation activities, the release of the remaining portion of the bond, but not before the expiration of the period specified for operator responsibility. Provided, however, that no bond shall be fully released until all reclamation requirements of this chapter are fully met.

(5) Upon application by a permittee for total or partial bond release, the cabinet shall notify the municipality where the surface coal mining operation is located, pursuant to regulations promulgated by the cabinet.

(6) (a) Upon receipt of the notification and request, the cabinet shall within thirty (30) days conduct an inspection and evaluation of the reclamation work involved. Such evaluation shall consider, among other things, the degree of difficulty to complete any remaining reclamation, whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution. The cabinet shall notify the permittee in writing of its decision to release or not to release all or part of the performance bond or deposit within sixty (60) days from the filing of the request, if no public hearing is held pursuant to subsection (7) of this section, and if there has been a public hearing held pursuant to subsection (7) of this section, within thirty (30) days thereafter.

(b) If the cabinet disapproves the application for release of the bond or portion thereof, the cabinet shall notify the permittee, in writing, stating the reasons for disapproval and recommending corrective actions necessary to serve said release and allowing opportunity for a public hearing.

(c) The bond liability of the permittee shall include only those actions which the permittee is obliged to take under the permit, including completion of the reclamation plan. Actions of third parties which are beyond the control and influence of the permittee and for which the permittee is not responsible under the permit shall not be covered by the bond.

(7) Any person having a valid legal interest which might be adversely affected by release of the bond, and the responsible officer or head of any governmental agency so designated by cabinet regulations, shall have the right to file written objections to the proposed bond release with the cabinet, and to request a hearing in accordance with procedural regulations promulgated by the cabinet.

SJR 44. A JOINT RESOLUTION directing the Department of Parks to study the feasibility of making the Fort Boonesborough State Park a full state resort park with lodge.

WHEREAS, Fort Boonesborough played a critical role in the settlement of Kentucky, was an important foothold in the settlement of the west and a strategic site during the Revolutionary War, and was the stage for Daniel Boone, one of the most colorful and exciting figures in America's history; and

WHEREAS, Fort Boonesborough State Park is an authentic reproduction of the Fort, which recreates the excitement and drama that accompanied Boone and his men at the original settlement; and

WHEREAS, Fort Boonesborough State Park has in addition to its reproductions of frontier activities and crafts, a beach and facilities on the Kentucky River, camping, sports and other daily activities, and a strategic location as a tourist attraction;

NOW THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Department of Parks is directed to study the feasibility of making the Fort Boonesborough State Park a full state resort park, with a lodge.

Section 2. That the Department of Parks report the results of the study to the Governor and the Legislative Research Commission by July 1, 1989.

The Committee on Natural Resources and Environment reported **SB 193** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Consent Calendar.

SB 193. AN ACT relating to emergency management.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The Kentucky Emergency Response Commission is established to implement all provisions of Title III, Public Law 99-499, associated federal regulations and subsequent related legislation and regulations related to hazardous substances, develop policies related to the response of state and local governments to releases of hazardous substances, develop standards for planning for such events, develop reporting requirements for those who manufacture, use, transport, or store such substances, provide information to the public concerning hazardous substances in the community, develop training requirements, and develop requirements for local governments and covered facilities to exercise plans related to hazardous substance response.

SECTION 2. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

As used in this chapter, unless the context requires otherwise:

(1) "Commission" means those persons appointed by the governor to implement provisions of Title III, PL 99-499 and this Act.

(2) "Local emergency planning committee", hereafter referred to as the "local committee," means those persons appointed by the commission to assist in the implementation of Title III, PL 99-499 and this Act.

(3) "Release" means, but is not limited to, any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment (including the abandonment or discarding of barrels, containers and other closed receptacles) of any hazardous substance.

(4) "Reportable quantity" means an amount of hazardous substances released which requires notification to local and state warning points.

(5) "Hazardous substance" means a substance specified by Title III, PL 99-499, subsequent federal regulations, this Act, and subsequent administrative regulations as requiring notification if released or if stored, manufactured or used.

(6) "Warning point" means that location, operated by state or local government, and identified by the state commission or local committee, and which is continuously staffed, and which has the capability or responsibility to contact governmental emergency response organizations and, if capability exists, to warn the public of hazards which may affect them.

(7) "Emergency response organization" means a unit of local government or a unit authorized by local government which may be called to make a response because of a release of a hazardous substance, and whose responsibilities are included in plans developed under this Act.

(8) "Facility" means all buildings, equipment structures, and other stationary items which are located on a single site or on contiguous or adjacent sites and which are owned or operated by the same person (or by any person which controls, is controlled by, or under common control with such person) and which manufactures, stores, or uses substances covered under this Act. For purposes of Section 17 of this Act, the term includes motor vehicles, rolling stock, and aircraft.

SECTION 3. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) The commission shall be composed of not more than twenty-five (25) members and shall be chaired by the executive director of the division of disaster and emergency services, department of military affairs, who shall also be a member. Other members shall include, but not be limited to representatives of the natural resources and environmental protection cabinet, the office of the state fire marshal, the Kentucky state police, the office of the attorney general, affected industry, local government, health services, environmental interests, and other persons who have technical expertise in the emergency response field as the governor deems appropriate.

(2) Members of the commission shall be appointed by the governor. On April 15, 1989, the governor shall appoint or reappoint nine (9) members for a term of three (3) years. At the same time, the governor shall appoint or reappoint nine (9) members for a term of two (2) years and seven (7) members to a term of one (1) year. Thereafter, all appointments shall be for a term of two (2) years. Members shall serve until their successors are appointed and qualified and shall be eligible for reappointment.

(3) The commission shall meet not less than annually.

(4) If a member misses three (3) consecutive meetings of the full commission or three (3) meetings in two (2) consecutive years, the position shall be declared vacant by the commission. In such cases, the governor shall make an appointment to fill the unexpired term.

(5) The presence of thirteen (13) members shall constitute a quorum and actions taken at such meetings shall be considered as actions of the full commission.

(6) Members of the commission shall not receive a salary for serving on the commission, but travel and per diem may be paid if funds are appropriated or otherwise made available for such purposes.

(7) Appointments to the commission made pursuant to executive orders 87-259 and 87-260 shall continue until they expire and subsequent appointments shall be made consistent with this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The commission shall:

(1) Appoint local emergency planning committees and revise such committees as it deems appropriate. The committees shall include, as a minimum, representatives from each of the following groups:

(a) Elected local officials;

(b) Law enforcement;

(c) Disaster and emergency services;

(d) Fire service;

(e) First aid;

(f) Health service;

(g) Local environmental;

(h) Hospital;

(i) Transportation;

(j) Broadcast and print media;

(k) Community groups; and

(l) Owners and operators of facilities subject to this Act;

(2) Adopt standards and procedures for the operations of local committees;

(3) Develop reporting requirements and procedures consistent with those of Title III, Public Law 99-499, for individuals, businesses, and governmental agencies that manufacture, use, store, or transport hazardous substances;

(4) Develop guidance and standards for plans related to hazardous substances;

(5) Approve, disapprove, and where necessary, make recommendations to improve plans developed by local emergency planning committees;

(6) Recommend administrative regulations to the executive director for issuance by the division of disaster and emergency services to implement provisions of this Act, consistent with Title III, Public Law 99-499;

(7) Receive from any source and authorize the expenditure of funds;

(8) Develop policies relating to the training of committees and persons subject to respond to releases of hazardous substances;

(9) Develop policies relating to exercising and testing plans developed by local emergency planning committees;

(10) Specify a warning point to which all required emergency notifications shall be made;

(11) Develop a procedure by which facilities may report the presence and inventories of hazardous substances and by which members of the public may obtain such reports;

(12) Annually review all commission policies and procedures and update them as necessary; and

(13) Adopt policies for the conduct of the business and duties of the commission.

SECTION 5. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The commission may undertake other activities that are:

(1) Required by federal law or regulation;

(2) Authorized by federal law or regulation;

(3) Authorized by executive order of the governor;

(4) Clearly adjunct to the duties specified in Section 3 of this Act;

(5) Necessary to approve or disapprove actions of the local committees;

(6) Necessary to effectively implement the requirements of Title III, PL 99-499; and

(7) Necessary to commence a civil action against the owner or operator of a facility for failure to comply with the provisions of Section 326, Title III, PL 99-499.

SECTION 6. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) The division of disaster and emergency services shall provide administrative support to the commission within the limitation of staff resources. The division may employ such staff and may acquire such technical or professional assistance as may be deemed necessary by the executive director of the division and approved by the adjutant general and for whom federal, state, or other funds have been provided.

(2) Persons employed under this section shall report to the executive director of the division and shall implement policies and directives of the commission as specified by the executive director. Other employes of the division may also support the commission and assist in the implementation of hazardous substance planning, reporting, investigation, training, and exercising as directed by the executive director. In such cases when the commission develops policies or directives which cannot reasonably be implemented by division staff, the executive director may defer implementation until sufficient resources exist. In such cases when the adjutant general advises the commission, in writing, that the division cannot provide requested resources, the commission may seek assistance from other agencies of state government.

(3) In no case shall the executive director devote division resources to support the commission if that support would result in the withdrawal of federal or state funds from the division.

(4) The division shall, upon concurrence by the executive director, issue administrative regulations recommended by the commission and consistent with Title III, PL 99-499. Such regulations shall include, but not be limited to:

(a) Substances which require inventory reporting;

(b) Quantities of each substance covered; and

(c) Emergency notification procedures and requirements.

SECTION 7. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Local emergency planning districts shall be consistent with county boundaries. The commission may authorize two (2) or more districts to combine, upon request of the committees of the affected districts. There shall be only one (1) emergency planning committee within a district.

SECTION 8. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) Local emergency planning committees are created as part of the state commission.

(2) Local committee members shall be appointed by the commission, and shall be considered as agents of the state for all purposes, including purposes of liability protection.

SECTION 9. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) Duties of the committees shall include:

(a) Development of plans to prepare emergency response organizations within cities, counties, and urban-county governments to respond effectively to releases of hazardous substances;

(b) Identification of a twenty-four (24) hour warning point within the district to which persons responsible for releases of hazardous substances must report such releases;

(c) Establishment of a method, consistent with federal law, commission policies, and administrative regulations, by which manufacturers, users, or storers of hazardous substances may report the presence of such substances and by which members of the public may obtain information about those substances;

(d) Appointment of a committee chairman, from among its members, for a term of two (2) years. Chairmen may be reappointed;

(e) Development and maintenance of plans consistent with guidance and policies established by the commission; and

(f) Development of procedures for the annual review of emergency plans and procedures developed under this Act.

(2) Local committees shall advise the commission of their actions by providing a copy of minutes to the commission within thirty (30) days of the date of the meeting. If the minutes are later changed before approval, a copy of the revised minutes shall be submitted to the commission within thirty (30) days of the approval.

(3) Local committees may request the chief of the fire department with jurisdiction over a facility which has, or may have, substances subject to Title III, PL 99-499 to make on-site inspections of such facilities and to report his findings to the chairman of the committee.

(4) Members of local committees shall serve for terms as specified by the commission, though not to exceed four (4) years except by reappointment. Committees may establish attendance standards for continued membership and shall advise the commission of any additions or deletions from the membership that are desired. Such changes may be approved or disapproved by the commission.

(5) Committee meetings shall be subject to provisions of KRS 61.805 through 61.850 relating to public meetings and to KRS 61.870 through 61.884 relating to open records, provided that trade secrets, as determined by the federal environmental protection agency, are processed in accordance with 42 USC 11042.

(6) The local committee may, after consultation with the commission chairman, seek civil remedies prescribed in Section 326, PL 99-499.

(7) The local committee may, with the advice and consent of the commission chairman, submit information to the county attorney for prosecution under KRS 39.990.

(8) Consultations pursuant to subsection (6) of this section shall be made prior to the giving of notice of intent to commence a civil action.

SECTION 10. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Owners or operators of facilities which manufacture, use, or store extremely hazardous substances, as identified in 40 CFR Part 355, and in quantities as identified in administrative regulations issued by the division of disaster and emergency services, must advise the commission, local committee, and fire department in whose jurisdiction the facility resides, of the name of the substance and its quantity within ninety (90) days of the date the facility first receives the substance or substances in excess of the quantities as identified in the administrative regulations, or if there is a revision of such regulations and the facility has present a substance or substances on the revised list in excess of the quantity established for such substances within ninety (90) days.

SECTION 11. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Owners or operators of facilities covered under Section 10 of this Act shall identify, within thirty (30) days of notifying the commission that the facility is subject to this Act, the name of a facility representative who will work with the local committee in the development of emergency plans and that person shall provide information necessary to the development of those plans.

SECTION 12. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) City, county and urban-county governments, school districts, special purpose district boards or other municipal corporations or political subdivisions of the state or local government shall participate in the planning process conducted by local emergency planning committees. Such participation shall include, as a minimum, providing information concerning government owned or controlled emergency response assets, reviewing plans developed by the committee, and concurring that the final plan can be executed with existing resources.

(2) In local governments where disaster and emergency services organizations receive state or federal funds, those organizations shall provide administrative and planning support to the committee as specified by the executive director of the division.

(3) If state or federal funds are appropriated specifically to support emergency response planning or other portions of Public Law 99-499, such funds may be allocated to local disaster and emergency services organizations and may be expended as specified by the executive director.

(4) Local governments may enact ordinances specifying standards which owners or operators of facilities must meet to provide warning of releases to workers and to the public which may be affected by a release.

SECTION 13. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) Plans developed under the guidance of the state commission shall be a part of the county emergency operations plan's hazardous materials annex. Such plans shall be consistent with the requirements and criteria prescribed by the state hazardous materials annex and shall emphasize a coordinated response by all local emergency response organizations.

(2) If, in the judgment of the commission, the local plan is inadequate or is inconsistent with the state emergency operations plan, the local plan shall be returned to the committee and the committee shall revise the plan until approved by the commission.

(3) Local committees shall annually review and update, where appropriate, each plan and submit revisions to the commission.

SECTION 14. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

After the state commission approves plans developed by each local emergency planning committee, emergency response organizations of each city, county, and urban-county government shall respond in a manner consistent with those plans.

SECTION 15. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Agencies of state government shall respond, within the confines of the state emergency operations plan and agency policies, to releases of hazardous substances. Each response shall be consistent with the hazardous materials annex of the state emergency operations plan. If an on-scene response is required by the state emergency operations plan or by agency policy, state agencies shall cooperate with one another and with local emergency response organizations and with the party or parties responsible for such release.

SECTION 16. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Any claims against the commission or committees or their members shall be filed with the state board of claims in accordance with KRS Chapter 44.

SECTION 17. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

When a release of a substance covered under Title III, PL 99-499 and administrative regulations adopted under this chapter occurs in a reportable quantity, the owner or operator of the facility where the release occurs, or the owner or operator of the vehicle transporting the hazardous substance, shall notify the local and state warning points within times established by administrative regulation. Such regulations shall also specify information to be provided upon initial report and in written follow-up reports.

SECTION 18. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

(1) The state commission shall, by administrative regulation issued by the division of disaster and emergency services, establish warning and notification standards, which shall include, but not be limited to:

(a) The establishment of twenty-four (24) hour warning points;

(b) Public warning; and

(c) Notification of local emergency response organizations.

(2) Any notification made pursuant to this Act shall not relieve the facility owner or operator or other responsible party of any notification required by other state or federal laws or regulations.

SECTION 19. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

The division shall, upon direction of the commission, issue administrative regulations requiring manufacturers, users, or storers of hazardous substances to report information concerning inventories and locations of such substances. These regulations shall use, by reference, lists of extremely hazardous substances and forms issued by the federal environmental protection agency and other organizations.

SECTION 20. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Upon request of the commission or local committee, facilities covered by such regulations as required in Section 19 of this Act shall, within the time periods prescribed by federal law, provide additional information necessary for developing and implementing the emergency plan about each substance to include, but not limited to, material safety data sheets.

SECTION 21. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

Reports to the commission or committee shall be available to the public upon request in accordance with the provisions of KRS 61.870 through 61.884 relating to open records, provided such information is not protected from release to the general public as a trade secret under federal law. Reasonable fees, consistent with KRS 61.874, may be charged for reproduction of such reports.

SECTION 22. A NEW SECTION OF KRS CHAPTER 39 IS CREATED TO READ AS FOLLOWS:

No section of this Act shall be construed as repealing any other laws of the Commonwealth, but shall be held and construed as ancillary and supplemental thereto.

Section 23. KRS 39.990 is amended to read as follows:

(1) Any person violating any provision of KRS 39.400 to 39.432 or any rule, order, or regulation made pursuant to KRS 39.400 to 39.432 shall, upon conviction thereof, be guilty of a misdemeanor punishable by a fine or imprisonment.

(2) Any person violating Sections 10, 11, or 20 of this Act shall, upon the first conviction thereof, be fined not less than two hundred and fifty dollars ($250) nor more than five hundred dollars ($500). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating Sections 10, 11, or 20 of this Act shall, upon subsequent convictions, be fined not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating Section 17 of this Act shall, upon the first conviction thereof, be fined not less than one thousand dollars ($1,000) nor more than twenty-five hundred dollars ($2,500). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefor. Any person violating Section 17 of this Act shall, upon subsequent conviction, be fined not less than twenty-five hundred dollars ($2,500) nor more than five thousand dollars ($5,000). If any offense is continued for more than one (1) day, each day upon which such offense occurs or is continued shall be considered and constitute a separate offense and a separate fine may be imposed therefore

Section 24. This Act confirms Executive Order 87-259, of the governor, issued on April 15, 1987, relating to the emergency response commission.

Posting of Bills and Resolutions for Consideration

The Clerk announced the following Bills and Resolutions have been posted for Committee consideration:

State Government: **SB 138, SB 119, SB 3, SB 210, SB 213, SB 268, SB 240.**

Natural Resources and Environment: **HB 787, SB 265, SB 283, SJR 65, SJR 17.**

Transportation: **SB 134, SB 147, SB 167, SB 236, SB 239, SB 242, SB 267, SB 277.**

Appropriations and Revenue: **HB 993, SB 331**

Banking and Insurance: **SB 392, SB 284, SB 285.**

Labor and Industry: **SB 195**

Judiciary-Civil: **SB 241.**

Report of Committees

The Committee on Rules reported **HB 249, HB 843, HB 858, HB 900, HB 490, HB 886, HB 896, HB 987, HB 990, HCR 109, HCR 110, HJR 123, HCR 131, SB 273, HB 523, HB 707** and **HB 1008** have been posted for passage in Orders of the Day, March 21, 1988.

The Committee on Rules reported the following Consent Bills have been posted for passage in Regular Orders of the Day, March 21, 1988: **HB 194, HB 705,** and **HB 791.**

The Committee on Rules reported the following Bill has been recommitted:

Appropriations and Revenue: **HB 724**

Motions, Petitions and Communications (continued)

Representative Stumbo moved that the three day posting requirement be waived on **SB 42**, **SB 286**, **SB 303**, **SB 170**, and **SB 294**. Agreed.

Representative Blevins moved that the rules be suspended to act upon Resolutions. Agreed.

Representative Blevins moved the adoption of the following **HR 175**:

HR 175, A RESOLUTION honoring Mabel Williams Barber as the "Kentucky Mother of the Year."

WHEREAS, Mabel Williams Barber of Morehead, formerly of West Liberty, recently was presented the 1988 "Kentucky Mother of the Year Award"; and

WHEREAS, Mabel Barber was awarded for her 42 years of work with Kentucky school children, her philosophy of parenting, her childrens' accomplishments; and

WHEREAS, Mabel Barber was awarded for her public services particularly in the areas of education, religion and medicine; and

WHEREAS, Mabel Barber was awarded this prestigious award for her whole life's work as a wife, a mother, Sunday School and Christian youth leader, guidance counselor, college instructor of language arts, Education Association president, veterans counselor and counselor for the Kentucky's Foreign Study League for which she counseled students in many foreign counties; and

WHEREAS, Mabel Barber was chosen among five finalists and will represent the Commonwealth of Kentucky in the national competition in San Juan, Puerto Rico;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives praises the dedication and devotion of Mabel Barber.

Section 2. That the members of this honorable body proudly hail Mabel Barber for the immeasurable contributions this exceptional individual has made.

Section 3. That the House commends Mabel Barber on winning the "Kentucky Mother of the Year Award" and cheers her on to the national competition.

Section 4. That the Clerk of the House is hereby directed to transmit a copy of this resolution to Mabel Williams Barber.

HR 175 was adopted by voice vote.

Representative Casebier moved the adoption of the following **HR 171**:

HR 171, A RESOLUTION honoring outstanding Kentuckian Owen C. Hammons.

WHEREAS, Owen C. Hammons has worked tirelessly on behalf of the United Auto Workers as International Service Representative; and

WHEREAS, under Owen Hammons' leadership, the United Auto Workers Union in Louisville has represented its members in a manner that has won praise from both labor and management; and

WHEREAS, Owen C. Hammons' important contributions to the working people of Kentucky is personified in the title "Mr. Labor";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Kentucky House of Representatives does hereby honor and congratulate Owen C. Hammons on his successful career as one of Kentucky's foremost labor leaders and that we wish him the very best as he begins his retirement.

Section 2. That the Clerk of the House is directed to transmit a copy of this resolution to Owen C. Hammons.

Section 3. That when the House does adjourn, it does so in honor of Owen C. Hammons.

HR 171 was adopted by voice vote.

Representative Ford moved the adoption of the following **HR 173**:

HR 173, A RESOLUTION honoring Don Walker.

WHEREAS, Don Walker is a longtime resident of Rockcastle County in the Commonwealth of Kentucky; and

WHEREAS, Don Walker has always exhibited a friendly nature and genuine concern for the public; and

WHEREAS, Don Walker, in his capacity as restaurateur, has provided travelers with true Kentucky hospitality; and

WHEREAS, Don Walker and his wife, Jean, operate Jean's Restaurant on Exit 59 of I-75;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives hails Don Walker for his graciousness in affording travelers a warm sense of welcome, and thereby promoting tourism in the Bluegrass State.

Section 2. That the House of Representatives does hereby designate Don Walker a goodwill ambassador for the Commonwealth of Kentucky.

Section 3. That the Clerk of the House of Representatives is directed to transmit a copy of this resolution to Mr. Don Walker, c/o Jean's Restaurant, Mt. Vernon, Kentucky, 40456.

HR 173 was adopted by voice vote.

Representative Strong moved the adoption of Legislative Citations No. 95, 96 and 97. Agreed.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds BUCKHORN HIGH SCHOOL WILDCATS for your outstanding performance during this basketball season. To team members, coaches and cheerleaders alike, the dedication and hard work exhibited during the season has led you to the prestigious honor of participating in the Sweet Sixteen Tournament. You can take further pride in the fact that you are the FIRST in the history of your school to be so honored. Your fine record of 25-8 certainly reflects your competitive spirit and the positive team effort of all involved.

The House of Representatives joins Representative Bill Strong in saluting you for the pride and honor you have bestowed on your school and your county.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds

OWSLEY COUNTY HIGH SCHOOL OWLS for your impressive basketball season. To team members, coaches and cheerleaders alike, we commend you and know that the hard work and dedication exhibited by all has brought great pride to your school and your county. The long hours of practice have certainly proven worthwhile and your winning season reflects the high level of your dedication and skill.

The House of Representatives joins Representative Bill Strong in saluting your dedication and sportsmanship and extends very best wishes in all your future endeavors.

The House of Representatives of the Commonwealth of Kentucky hereby congratulates and applauds OWSLEY COUNTY HIGH SCHOOL LADY OWLS for your impressive basketball season. To team members, coaches and cheerleaders alike, we commend you and know that the hard work and dedication exhibited by all has brought great pride to your school and your county. The long hours of practice have certainly proven worthwhile and your winning season reflects the high level of your dedication and skill.

The House of Representatives joins Representative Bill Strong in saluting your dedication and sportsmanship and extends very best wishes in all your future endeavors.

Representative Stumbo moved the adoption of the following **HR 174**:

HR 174, A RESOLUTION honoring Colonel C. E. Hodgin.

WHEREAS, Colonel C. E. Hodgin faithfully served the Kentucky Military Institute in Lyndon, Kentucky and Venice, Florida for forty-five years; and

WHEREAS, Colonel C. E. Hodgin has been a remarkable influence on the students who studied under his direction; and

WHEREAS, Colonel C. E. Hodgin is highly regarded for his integrity, responsibility and outstanding character; and

WHEREAS, as a result of his guidance, successful KMI graduates live, work and make contributions in all fifty states and eight foreign countries; and

WHEREAS, Colonel C. E. Hodgin has been recognized by the KMI Educational Foundation with the "Spirit of Excellence Award";

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That the House of Representatives honors Colonel C. E. Hodgin for his many years of service at the Kentucky Military Institute.

Section 2. That when the House of Representatives adjourns this day, March 18, 1988, it does so in honor of Colonel C. E. Hodgin.

Section 3. That the Clerk of the House of Representatives be directed to transmit copies of this resolution to Colonel C. E. Hodgin, 525 Club Lane, Louisville, Kentucky, 40207, and to Mr. Herbert A. Moore, P.O. Box 758, Lexington, Kentucky, 40501.

HB 174 was adopted by voice vote.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 806**. Agreed.

Representative Ballard moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as changing his vote from "nay" to "yea" on Floor Amendment No. 20 to **HB 516**. Agreed.

Representative Barrows moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "nay" on **HB 1022**. Agreed.

Representative Todd moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Todd moved that his vote be changed from "nay" to "yea" on **HB 1022**. Agreed.

Representative Donnermeyer moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Donnermeyer moved that his vote be changed from "nay" to "yea" on **HB 788**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Casebier moved that he be recorded as voting "yea" on **HB 788**. Agreed.

Representative Casebier moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Casebier moved that he be recorded as voting "yea" on **HB 725**. Agreed.

Representative Keith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Keith moved that he be recorded as voting "nay" on **HB 856**. Agreed.

Representative Keith moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Keith moved that he be recorded as voting "yea" on **HB 764**, **HB 868**, **HB 513**, **HB 381**, **HB 343** and **HB 452**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that his vote be changed from "nay" to "yea" on **HB 820** and **HB 1022**. Agreed.

Representative Reinhardt moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 668**. Agreed.

Representative Bruce moved the rules be suspended for the purpose of recording a vote. Agreed.

Representative Bruce moved that his vote be changed from "nay" to "yea" on on **HB 1022** Agreed

Announcements

The Clerk announced the filing of the following Floor Amendments to Bills and Resolutions:

Floor Amendment No. 2 to Committee Substitute to **HB 371**, by Representative Barrows:

Amend printed copy of HCS to **HB 371** on page 11, line 14, by inserting "*and*" after the semicolon; and

on page 11, line 16, by deleting "; *and*" and by substituting therefor "."; and on page 11, by deleting lines 17 and 18; and

on page 32, line 26, by inserting after the word "Effective" the words "*August 1, 1988*" and by bracketing and striking through the words "July 15, 1986"; and

on page 36, line 20, by inserting after "1," the following "*1988*" and by bracketing and striking through "1986"; and

on page 56, line 19, by deleting the word "*exclusively*"; and

on page 61, lines 8 and 9, by deleting all brackets and strike throughs;and

on page 62, line 8, by deleting the brackets and strike throughs on the word "and"; and

on page 62, line 9, by deleting all new language; and

on page 62, by deleting lines 10 through 13; and

on page 62, line 14, by deleting "*(f)*"; and

on page 66, line 20, by deleting all new language on line 20; and

on page 66, by deleting lines 21 and 22; and

on page 66, line 23, by deleting new language and by deleting all brackets and strike throughs; and

on page 66, line 24, by deleting brackets and strike throughs; and

on page 68, line 4, by bracketing and striking through "July 1" and by substituting therefor "*August 1*"; and

On page 68, line 14, by inserting after the word "*year*" the following: "*, as averaged over a five (5) year period. The first period for averaging shall be from July 1, 1986 to August 1, 1990. Each year thereafter the next year shall be added and the first year shall be dropped from the five (5) year averaging period*"; and

on page 81, lines 7 and 8, by deleting the brackets and strike throughs; and

on page 85, line 7, by inserting "*and*" after the semicolon; and

on page 85, line 9, by deleting "*; and*" and by substituting therefor "."; and

on page 85, by deleting lines 10 and 11; and

on page 98, beginning on line 14 and continuing to page 105 by deleting Section 44. of the bill; and

on page 98, line 13, by adding thereafter "Section 44. KRS 61. 661 is amended to read as follows:

Each member's account shall be administered in a confidential manner and specific data regarding a member shall not be released for publication unless authorized by the member, however, the board may release member account information to the employer or to other state and federal agencies as it deems necessary *or in response to a lawful subpoena or order issued by a court of law. The member's account shall be exempt from the provisions of KRS 171.410 to 171.990.*".

Floor Amendment No. 3 to Committee Substitute to **HB 371**, by Representative Crupper:

Amend printed copy of HCS to **HB 371** on page 32, line 2, by adding after "1956." the following: "*Employes* *of the Kentucky state racing commission shall receive credit for current service between July 1, 1956, and the effective date of participation by the Kentucky state racing commission without making a delayed contribution payment.*".

Floor Amendment No. 1 to Committee Substitute to **HB 458**, by Representative Hancock:

Amend printed copy of HCS to **HB 458** on page 20, line 4, by adding thereafter: "Section 4. KRS 61.558 is amended to read as follows:

(1) An employe participating in the Kentucky employes retirement system, *or a former employe not yet retired who has not withdrawn his contributions pursuant to KRS 61.625, or who has repaid withdrawn contributions, and who participates in the teachers' retirement system,* may obtain credit for all or any part of the service in a regular full-time position otherwise creditable under the county employes retirement system, the teachers' retirement system, state police retirement system or in the service of the United States government, other than service in the armed forces, for which service credit is not otherwise given by paying to the system a delayed contribution payment. No payment made pursuant to this section shall be picked up by the employer, as described in KRS 61.560(4).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these four (4) retirement systems.".

Floor Amendment No. 1 to Committee Substitute to **HB 636**, by Representative Morris:

Amend printed copy of HCS to **HB 636** by deleting all the provisions of the bill on page 1 through page 6 and insert in lieu thereof the following language:

"*Section 1. (1) In order to study the problems of government competition with private enterprise in the Commonwealth, the governor shall appoint a study commission of nine (9) citizens of the Commonwealth composed as follows:*

(a) One (1) member shall be a representative from the financial and banking community;

(b) One (1) member shall be a representative from the legal profession;

(c) One (1) members shall be from the office of the attorney general;

(d) One (1) member shall be a representative of the small business community;

(e) One (1) member shall represent labor;

(f) One (1) member shall represent the Kentucky council on higher education;

(g) One (1) member shall be a member of the Kentucky House of Representatives;

(h) One (1) member shall be a member of the Kentucky Senate;

(i) One (1) member shall be the secretary of the cabinet or his designee.

(2) The commission shall study and identify government activities that are or may be in competition with private enterprise in Kentucky and study the desirability of contracting out government services to the private sector.

(3) The governor shall appoint the chairman of the commission.

(4) The commission shall at the direction of the chairman be staffed from personnel provided by the department of finance and administration and the legislative research commission.

(5) The commission shall report its findings, to the governor and the legislative research commission no later than October 1, 1989.

Floor Amendment No. 3 to Committee Substitute to **HB 917**, by Representative B. Richardson:

Amend printed copy of HCS for **HB 917** on page 1, line 6, by inserting after the underscored word "*cabinet*" the following language: "*information relating to the value or production of mineral resources from its property*".

And on line 7, by deleting the new underscored word "*compose*" and inserting in its place the word "*provide*".

And on line 12, be deleting the new underscored number "*1988*" and inserting in its place the word "*1989*".

And on line 15, by adding after the "." the following: "*In determining fair cash value, the revenue cabinet shall consider the findings and conclusions of the Kentucky Geological Survey regarding geological information about the mineral resources, and the commercial value, or lack thereof, of those mineral resources. In determining the assessed value of mineral resources, if appropriate to the particular mineral being assessed, the revenue cabinet shall consider whether the mineral resources are "active mining property," "active reserves", inactive reserves", "barren property", "unmined property" or "commercially unminable property", as those terms are defined at KRS 132.010. In determining the assessed value of non-hydrocarbon mineral resources the revenue cabinet shall consider whether or not there is currently active mining or quarrying operation in the vicinity of the non-hydrocarbon mineral resources being assessed.*"

On page 2, line 10, after the "." by adding the following: "*Active mining property which becomes barren upon extraction of mineral resources shall be valued at its lower value or January 1 following the year in which the mineral resources were extracted. "Prepared for extraction" as used in this section means property for which a permit application has been submitted to but for which a permit has not been issued by the natural resources and environmental protection cabinet pursuant to KRS Chapter 350.*"

On page 3, line 12, by deleting the new underscored language "*, corporation*".

And on line 13, by deleting the entire line and inserting in its place the language "*natural or legal,*".

And on line 15, by deleting the "." and inserting in its place "*and*".

And on page 12, line 21, by deleting the new, underscored language "*, but excluding oil, natural gas and natural*".

And on line 22, by deleting the new, underscored language "*gas liquids*".

On page 13, line 1, by adding after the word "*cabinet*" the following language: "*, pursuant to KRS Chapter 350. The existence of a permit issued by the Kentucky Natural Resources and Environmental Protection Cabinet pursuant to KRS Chapter 224 shall not be conclusive proof that the entire area so permitted is "active mining property". Each permittee permitted under KRS Chapter 224 shall submit to the Revenue Cabinet a map of the area it intends to mine within the next two (2) years, considering the most recent year's rate of production on active mining property.*"

and by deleting the new, underscored language "*Parcels under common ownership,*".

And on line 2, by deleting the entire line.

On page 13, line 3, by deleting all language after the word "*means*" and adding the following: "*those mineral resources in excess of active mining property, under common ownership, lease or control with active mining property, containing a seam which is the same as or substantially similar to that being mined in the active mining property, and which consists of acreage containing mineral resources which could be economically* *mined within five (5) years using the most recent year's rate of production on active mining property.*"

And on lines 4 through 8, by deleting the new, underscored language appearing on lines 4 through 8.

On page 13, line 10, by deleting the new, underscored language "*owned, leased or controlled by a*".

And on line 11 and 12, by deleting the new underscored language appearing on lines 11 and 12.

And on line 13, by deleting the word "*assignable*" and inserting in its place "*classifiable*".

And on line 14, by deleting the new underscored language "*or unminable*".

And on line 15, by adding after the word "*property,*" the following: "*unminable property*" *or* "*commercially unminable property*".

And by deleting the new underscored language in line 15 "*and shall also mean mineral resources which have*".

And on lines 16 through 22, be deleting the new underscored language in lines 16 through 22.

And on line 23, by deleting the new, underscored language "*or unminable*'" and adding an underlined quote mark after the word "*property*".

And on line 25, by inserting a period "." after the word "*operations*" deleting the word "*or*" and inserting in its place the words "*(23) Unminable property means those seams of mineral resources*".

On page 14, line 2, by deleting the word "*In*".

And on line 3, by deleting the new underscored words "*addition "barren and unminable" property means*" and inserting in its place "*It shall additionally mean*"

On page 14, line 9, by deleting the word "*assignable*" and replacing it with the word "*classifiable*"; and

On page 14, line 11, by deleting the new underscored word "*mining*" and inserting in lieu thereof the word "*extraction*": and

On line 11, by inserting after line 11 the following:

"*(24) Commercially unminable property" means those seams of mineral resources which are not economically feasible to mine by any method of extraction in common usage within the particular industry considering the price that the owner of the mineral resource could reasonably expect to receive from the extraction of the mineral resources.*": and

On page 22, line 11, by inserting after "(11)" the following language:

"*Mineral resources on and after January 1, 1989, except that the same shall be exempt from state ad valorem taxes when they have been mined and removed from the earth, and except that all taxing entities within the county where the mineral resource is located may cumulatively impose an ad valorem tax of not exceeding ten cents ($.10) on each one hundred dollars ($100) of fair cash value of mineral resources subject to taxation within their limits. The total tax collected pursuant to this section shall be divided among all taxing authorities within the counties, prorata, in the same proportion that each taxing authority's total ad valorem tax receipts bear to the total ad valorem tax receipts within the county.*"; and

Renumber each subsection accordingly.

On page 22, line 15, by changing the number "*1988*" to "*1989*"; and

On page 22, line 11, after "land" delete the comma and insert in lieu thereof "*and*"; and

On page 23, line 12 by deleting the new, underscored language "*, oil, natural gas or natural gas liquids*"; and

On page 26, line 19, by deleting the word "*corporation,*"; and

On page 26, line 20, by deleting the entire line and inserting in its place "*legal or natural.*"; and

On page 26, line 22, by deleting the comma ","; and

On page 26, line 23, by deleting the new, underscored language "*, oil, natural gas, and natural gas liquids*"; and

On page 27, lines 8 through 11, by deleting the language in lines 8 through 11 and inserting in its place the following:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Any taxpayer who pays taxes on mineral resources levied pursuant to KRS 132.020 (1) shall be given a credit in the amount of eighty-five percent (85%) of taxes so paid against taxes levied pursuant to KRS Chapter 143 and 143A and KRS 137.120. To the extent that the taxpayer, by lease or other legal document has obligated another person, either natural or legal, to pay the tax imposed on mineral resources by KRS 132.020 (1) and the person so obligated also is obligated to and does pay a tax pursuant to KRS Chapters 143 and 143A and KRS 137.120, then, upon submission of proper proof to the cabinet of the legal obligation to pay and the payment to the taxpayer of all or a portion of the taxes imposed on mineral resources by KRS 132.020 (1) then only the person so obligated shall be given the credit in the amount of ninety percent (90%) of the taxes so paid against the taxes owed pursuant to KRS Chapters 143 and 143A and KRS 137.120, as set forth in this section.

SECTION 13. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

The revenue cabinet may promulgate administrative regulations to effectuate the provisions of this Act."

Floor Amendment No. 4 to Floor Amendment No. 2 to Committee Substitute to **HB 917**, by Representative Little:

Amend printed copy of Floor Amendment No. 2 to **HB 917/HCS** on page 41, on line 10, by deleting the phrase "*and local*"; and beginning on page 42 by deleting sections 11 through 22 in their entirety and by renumbering subsequent sections to conform.

Floor Amendment No. 5 to Floor Amendment No. 2 to Committee Substitute to **HB 917**, by Representative Little:

Amend printed copy of Floor Amendment No. 2 of **HB 917/HCS** on page 41, in line 10, by deleting the phrase " *and local* " ; and

On page 42, on line 5, by deleting lines 5 and 6, and inserting in lieu thereof "SECTION 11, KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" ; and,

On page 45, on line 10, by deleting the year "*1989*" and inserting in lieu thereof the year "*1988*" ; and,

On page 46, on line 3, by deleting the phrase "*ten percent (10%)*" and inserting in lieu the phrase "*one percent (1%)*" ; and

On page 48, on line 9, after the word "which" by inserting the phrase "*payment is received for*" ;

And after the word "*coal*" by deleting the word "*is*" ; and,

On page 52, on line 4, after the word "*agreement*" by inserting the word "*between*"

Beginning on page 45, beginning on line 15, by deleting the sentence following "Section 12." and inserting in lieu thereof "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"; and,

On page 46, beginning on line 5, by deleting the sentence following "Section 13." and inserting in lieu thereof: "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" and.

On page 47, beginning on line 7 by deleting the sentence following "Section 14." and inserting in lieu thereof "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION IS CREATED TO READ AS FOLLOWS:" ; and,

On page 48, beginning on line 1 by deleting the sentence following "Section 15." and inserting in lieu thereof: "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" ; and,

On page 50, beginning on line 3, by deleting the sentence following "Section 16." and inserting in lieu thereof: "KRS CHAPTER 144 IS ESTABLISHED TO AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" ; and,

Beginning on line 11, by deleting the sentence following "Section 17." and inserting in lieu thereof: "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" ; and,

On page 51, beginning on line 8 by deleting the sentence following "Section 18." and inserting in lieu thereof: "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" and,

On page 53, beginning on line 2, by deleting the sentence following "Section 19." and inserting in lieu thereof "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"; and,

On page 54, beginning on line 9, be deleting the sentence following "Section 20." and inserting in lieu thereof "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" and.

On page 55, beginning on line 1, by deleting the sentence following "Section 21." and inserting in lieu thereof "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:" and,

On line 8, by deleting the sentence following "Section 22." and inserting in lieu thereof "KRS CHAPTER 144 IS ESTABLISHED AND A NEW SECTION THEREOF IS CREATED TO READ AS FOLLOWS:"

Floor Amendment No. 6 to Floor Amendment No. 2 to Committee Substitute to **HB 917**, by Representative Little:

Amend printed copy of Floor Amendment No. 2 of **HB 917/HCS** on page 5, line 7, after the word "resources" by inserting the following phrase "*, except stored natural gas,* " and

On page 19, beginning on line 5, by deleting the phrase "*but excluding oil, natural gas, natural gas liquids, and limestone*"; and

On page 35, line 14, by deleting the phrase "*oil, natural gas or natural gas liquids*"; and

On page 40, beginning on line 24, by deleting "Section 10 in its entirety and inserting in lieu thereof the following language:

"Section 10. A NEW SECTION OF KRS SECTION 132 IS CREATED TO READ AS FOLLOWS:

Any taxpayer who pays tax on mineral resources levied pursuant to KRS 132.020(1) shall be given a credit in the amount of eighty-five percent (85%) of taxes so paid against taxes levied pursuant to KRS Chapter 143 and 143A and KRS 137.120. To the extent that the taxpayer, by lease or other legal document has obligated another person, either natural or legal, to pay the tax imposed on mineral resources by KRS 132.020(1) and the person so obligated also is obligated to and does pay a tax pursuant to KRS Chapter 143 and 143A and KRS 137.120, then, upon submission of proper proof to the Cabinet of the legal obligation to pay and the payment to the taxpayer of all or a portion of the taxes imposed on mineral resources by KRS 132.020(1) then only the person so obligated shall be given the credit in the amount of eighty-five percent (85%) of the taxes so paid against the taxes owed pursuant to KRS Chapter 143 and 143A and KRS 137.120, as set forth in this section. The Revenue Cabinet shall promulgate rules and regulations for the implementation of this section, and may require the sheriff of each mineral producing county to report tax collection information to the cabinet."

Floor Amendment No. 7 to Committee Substitute to **HB 917**, by Representative B. Richardson:

Amend printed copy of HCS to **HB 917** on page 1, line 6, by inserting after the underscored word "*cabinet*" the following language: "*information relating to the value or production of mineral resources from its property*".

And on line 7, by deleting the new underscored word "*compose*" and inserting in its place the word "*provide*".

And on line 12, be deleting the new underscored number "*1988*" and inserting in its place the word "*1989*".

And on line 15, by adding after the "." the following: "*In determining fair cash value, the revenue cabinet shall consider the findings and conclusions of the Kentucky Geological Survey regarding geological information about the mineral resources, and the commercial value, or lack thereof, of those mineral resources. In determining the assessed value of mineral resources, if appropriate to the particular mineral being assessed, the revenue cabinet shall consider whether the mineral resources are "active mining property," "active reserves", inactive reserves", "barren property", "unmined property" or "commercially unminable property", as those terms are defined at KRS 132.010. In determining the assessed value of non-hydrocarbon mineral resources the revenue cabinet shall consider whether or not there is currently active mining or quarrying operation in the vicinity of the non-hydrocarbon mineral resources being assessed.*"

On page 2, line 10, after the "." by adding the following: "*Active mining property which becomes barren upon extraction of mineral resources shall be valued at its lower value or January 1 following the year in which the mineral resources were extracted. "Prepared for extraction" as used in this section means property for which a permit application has been submitted to but for which a permit has not been issued by the natural resources and environmental protection cabinet pursuant to KRS Chapter 350.*"

On page 3, line 12, by deleting the new underscored language "*, corporation*".

And on line 13, by deleting the entire line and inserting in its place the language "*natural or legal,*".

And on line 15, by deleting the "." and inserting in its place "*and*".

And on page 12, line 21, by deleting the new, underscored language "*, but excluding oil, natural gas and natural*".

And on line 22, by deleting the new, underscored language "*gas liquids*".

On page 13, line 1, by adding after the word "*cabinet*" the following language: "*, pursuant to KRS Chapter 350. The existence of a permit issued by the Kentucky Natural Resources and Environmental Protection Cabinet pursuant to KRS Chapter 224 shall not be conclusive proof that the entire area so permitted is "active mining property". Each permittee permitted under KRS Chapter 224 shall submit to the Revenue Cabinet a map of the area it intends to mine within the next two (2) years, considering the most recent year's rate of production* *on active mining property."*

and by deleting the new, underscored language "*Parcels under common ownership,*".

And on line 2, by deleting the entire line.

On page 13, line 3, by deleting all language after the word "*means*" and adding the following: "*those mineral resources in excess of active mining property, under common ownership, lease or control with active mining property, containing a seam which is the same as or substantially similar to that being mined in the active mining property, and which consists of acreage containing mineral resources which could be economically mined within five (5) years using the most recent year's rate of production on active mining property.*"

And on lines 4 through 8, by deleting the new, underscored language appearing on lines 4 through 8.

On page 13, line 10, by deleting the new, underscored language "*owned, leased or controlled by a*".

And on line 11 and 12, by deleting the new underscored language appearing on lines 11 and 12.

And on line 13, by deleting the word "*assignable*" and inserting in its place "*classifiable*".

And on line 14, by deleting the new underscored language "*or unminable*".

And on line 15, by adding after the word "*property*"," the following: ""*unminable property*" or "*commercially unminable property*".

And by deleting the new underscored language in line 15 "*and shall also mean mineral resources which have*".

And on lines 16 through 22, be deleting the new underscored language in lines 16 through 22.

And on line 23, by deleting the new, underscored language "*or unminable*'" and adding an underlined quote mark after the word "*property*".

And on line 25, by inserting a period "." after the word "*operations*" deleting the word "*or*" and inserting in its place the words "*(23) Unminable property means those seams of mineral resources*".

On page 14, line 2, by deleting the word "*In*".

And on line 3, by deleting the new underscored words "*addition "barren and unminable" property means*" and inserting in its place "*It shall additionally mean*"

On page 14, line 9, by deleting the word "*assignable*" and replacing it with the word "*classifiable*"; and

On page 14, line 11, by deleting the new underscored word "*mining*" and inserting in lieu thereof the word "*extraction*": and

On line 11, by inserting after line 11 the following:

"*(24) Commercially unminable property" means those seams of mineral resources which are not economically feasible to mine by any method of extraction in common usage within the particular industry considering the price that the owner of the mineral resource could reasonably expect to receive from the extraction of the mineral resources.*"; and

On page 22. line 11, by inserting after "(11)" the following language:

"*Mineral resources on and after January 1, 1989, except that the same shall be exempt from state ad valorem taxes when they have been mined and removed from the earth, and except that all taxing entities within the* *county where the mineral resource is located may cumulatively impose an ad valorem tax of not exceeding ten cents ($.10) on each one hundred dollars ($100) of fair cash value of mineral resources subject to taxation within their limits. The total tax collected pursuant to this section shall be divided among all taxing authorities within the counties, prorata, in the same proportion that each taxing authority's total ad valorem tax receipts bear to the total ad valorem tax receipts within the county.*"; and

Renumber each subsection accordingly.

On page 22, line 15, by changing the number "*1988*" to "*1989*"; and

On page 22, line 11, after "land" delete the comma and insert in lieu thereof "*and*"; and

On page 23, line 12 by deleting the new, underscored language "*, oil, natural gas or natural gas liquids*"; and

On page 26, line 19, by deleting the word "*corporation,*"; and

On page 26, line 20, by deleting the entire line and inserting in its place "*legal or natural,*"; and

On page 26, line 22, by deleting the comma ","; and

On page 26, line 23, by deleting the new, underscored language "*, oil, natural gas, and natural gas liquids*"; and

On page 27, lines 8 through 11, by deleting the language in lines 8 through 11 and inserting in its place the following:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

Any taxpayer who pays taxes on mineral resources levied pursuant to KRS 132.020 (1) shall be given a credit in the amount of eighty-five percent (85%) of taxes so paid against taxes levied pursuant to KRS Chapter 143 and 143A and KRS 137.120. To the extent that the taxpayer, by lease or other legal document has obligated another person, either natural or legal, to pay the tax imposed on mineral resources by KRS 132.020 (1) and the person so obligated also is obligated to and does pay a tax pursuant to KRS Chapters 143 and 143A and KRS 137.120, then, upon submission of proper proof to the cabinet of the legal obligation to pay and the payment to the taxpayer of all or a portion of the taxes imposed on mineral resources by KRS 132.020 (1) then only the person so obligated shall be given the credit in the amount of eighty-five percent (85%) of the taxes so paid against the taxes owed pursuant to KRS Chapters 143 and 143A and KRS 137.120, as set forth in this section.

SECTION 13. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

The revenue cabinet may promulgate administrative regulations to effectuate the provisions of this Act."

Floor Amendment No. 2 to **HB 989**, by Representative Hancock:

Amend printed copy of **HB 989** on page 1, line 13, by adding after the period the following: "*Any employe of a parted employer hired on or before January 1, 1988 who meets the requirements of KRS 61. 559(2)(e) may also receive additional service credit equal to ten percent (10%) of his actual service credit earned while actually participating in the system, prior to the addition of service credit for accrued sick leave as provided in KRS 61.546.*"; and

Amend printed copy of **HB 989** on page 3, line 12, after the word "*reemployed*" by adding the following: "*earning more than the Federal Social Security Act maximum for a retired person*"; and

On page 3,line 26, by inserting after the "*(7)*" the following: "*The purpose of this Act is to bring expenditures in line with general fund revenues.*"; and

On page 4, line 4, by inserting thereafter the following: "Section 2. *The Finance and Administration*

Cabinet shall be granted authority to accrue savings and transfer sufficient funds between appropriation units of agencies and departments under the provisions of this Act to facilitate payments into the respective retirement systems for federally funded employes and employes of parted employers electing early retirement.

on page 4, line 5, by changing "2" to "3".

Floor Amendment No. 1 to **HB 991**, by Representative Hancock:

Amend printed copy of **HB 991** beginning on page 1, by deleting Sections 1 and 2 of the bill and by inserting therefor beginning on page 1, line 1, the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding the provisions of KRS 198B.060(17) or 198B.090(10), in addition to the other purposes and programs authorized by this chapter, any fees collected pursuant to this chapter may also be used to fund a supplemental salary not to exceed two thousand dollars ($2,000) for each local government authorized code enforcement official who is qualified by the department as having attained and maintained in good standing one (1) of the categories of certification set forth in the administrative regulation issued by the department.

(2) The board of housing, buildings and construction is authorized to establish administrative regulations for the administration of the supplemental income program set forth in this section, including the appropriate supplement for each category of certification.".

Floor Amendment No. 1 to **HB 1013**, by Representative Ark:

Amend printed copy of **HB 1013** on page 5, line 7, by adding thereafter the following:

"SECTION 4. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

In lieu of a basic training course of four hundred (400) hours duration completed at a school certified or recognized by the Kentucky law enforcement council as provided by KRS 15.440(4), sheriffs and their deputies may complete a basic training course of two hundred (200) hours duration conducted by the Kentucky sheriffs' academy, or may substitute graduation from the Kentucky State Police Academy.

Section 5. KRS 15.420 is amended to read as follows:

As used in KRS 15.410 to 15.510, unless the context otherwise requires:

(1) "Local unit of government" means any city or county, or any combination of cities and counties *or county sheriff's department*, of the Commonwealth.

(2) "Police officer" means a full-time member of a lawfully organized police department of county or city government, *a sheriff, or full-time deputy sheriff appointed pursuant to KRS 70.030 and approved by the fiscal or circuit court pursuant to KRS 64.345 or 64.530*, who is responsible for the prevention and detection of crime and the enforcement of the general criminal laws of the state, but does not include Kentucky state police, any *special* [elected officer, sheriff,] deputy sheriff *appointed pursuant to KRS 70.045, any* constable, deputy constable, district detective, deputy district detective, special local peace officer, auxiliary police officer or any other peace officer not specifically authorized in KRS 15.410 to 15.510.

(3) "Council" means the Kentucky law enforcement council.

Section 6. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the law enforcement foundation program fund:

(1) Employs one or more police officers;

(2) Pays every police officer a minimum annual salary of $4,350;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky law enforcement council, for employment of police officers on or after July 1, 1972; provided, however, that all police officers employed prior to July 1, 1972 shall be deemed to have met the requirements of this subsection, *and that all sheriffs serving in office on the effective date of this Act shall be deemed to have met the requirements of this subsection*;

(4) Requires all police officers employed on or after July 1, 1972, to successfully complete a basic training course of at least 400 hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky law enforcement council, *except as provided by Section 1 of this Act and all sheriffs serving in office on the effective date of this Act shall be deemed to have met the requirements of this subsection*; notwithstanding the authority of any department or administrative agency of state government to promulgate administrative regulations, no such department or administrative agency may, by administrative action, increase the minimum number of hours for a basic training course specified in this subsection;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least 40 hours' duration at a school certified or recognized by the Kentucky law enforcement council, *or in the case of sheriffs and their deputies, an annual in-service training course of at least fifty (50) hours duration at a school certified or recognized by the Kentucky Sheriffs' Association*;

(6) Requires compliance with all provisions of law applicable to local police, including transmission of data to the bureau of criminal information and statistics as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, issued by the department of justice to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) [Provided, however, that] No local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the law enforcement foundation program fund unless the local police department actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the law enforcement foundation program fund until the local police department has substantially complied with subsections (6) and (7) of this section, *except sheriffs' departments wherein each sheriff or deputy shall receive his share of the distribution from the law enforcement foundation program fund if he fulfills the requirements of this section, notwithstanding the participation of other members of the department in fulfilling the requirements of this section.*

(9) No sheriff's department which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the law enforcement foundation program fund unless sheriff's deputies who receive supplemental pay are included under the county's employe merit system. If the county does not have an employe merit system, the deputy sheriff who receives supplemental pay, and who has satisfied the annual in-service training course described in subsection (5) of this section, shall not be discharged by any sheriff except for cause. The deputy shall be entitled to a hearing of his case by the fiscal court to determine whether cause for dismissal is sufficient and is not arbitrary or capricious.

Section 7. KRS 15.460 is amended to read as follows:

(1) Beginning July 1, 1982, an eligible local unit of government shall be entitled to receive annually a supplement of two thousand five hundred dollars ($2,500) for each qualified police officer it employs, *but a sheriff's department shall not be entitled to receive annual supplements until July 1, 1990.*

(2) Each qualified police officer, whose local government receives a supplement pursuant to subsection (1) of this section, shall be paid by the local government the supplement which his qualifications brought to the local government. The supplement paid each police officer shall be in addition to his regular salary.

(3) (a) Each qualified sheriff who receives the maximum salary allowed by Constitution of Kentucky, Section 246, and KRS 64.527 shall not receive the supplement;

(b) Each qualified sheriff who does not receive the maximum salary allowed by the Constitution of Kentucky, Section 246, and KRS 64.527 exclusive of the expense allowance provided by KRS 70.170, shall upon final settlement with the fiscal court, pursuant to KRS 134.310, receive as much of the supplement that will not cause his compensation to exceed the maximum salary;

(c) Each qualified sheriff who seeks to participate in the fund shall forward a copy of the final settlement, prepared pursuant to KRS 134.310, to the fund. The fund shall be reimbursed by the sheriff if an audit of the final settlement, conducted pursuant to KRS 134.310, reflects that the sheriff received all or a portion of the supplement in violation of this section. A sheriff who fails to provide a copy of the final settlement to the fund or to reimburse the fund after correction by audit if required, shall not be qualified to participate in the fund for a period of two (2) years; and

(d) Each qualified deputy sheriff shall receive the supplement from the sheriff if the sheriff administers his own budget, or from the county treasurer if the sheriff pools his fees. The failure of a sheriff to comply with the provisions of this section shall not affect the qualifications of his deputies for participation in the fund.".

Floor Amendment No. 1 to **SB 6**, by Representative Blevins:

Amend printed copy of **SB 6** on page 8, line 29 after "Section 5." insert the following:

"A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) No person shall be eligible to attend the driver improvement program established pursuant to KRS 186.574 who has been cited for any violation of KRS Chapter 177, 186 or 189, which has a penalty a mandatory revocation or suspension of his driver's license.

(2) No person shall be eligible to attend the driver improvement program established pursuant to KRS 186.574 for any violation when at the time of that violation, the person did not have a driver's license, or his driver's license had been suspended or had been revoked by the transportation cabinet.

(3) No person shall be eligible to attend the driver improvement program established pursuant to KRS 186.574 more than once during a twelve (12) month period.

(4) Any defendant who has been sentenced to attend the driver improvement program shall be required to attend and the transportation cabinet shall notify the sentencing court when a person ordered to attend the said program is ineligible to attend under the provisions of this section or for any other reason. Upon notification to the trial court that a person is ineligible to attend, then the clerk of that court shall cause the case to be returned to an active calendar for a hearing on a day certain and a summons shall be issued to that defendant to appear and show cause, if any, why an alternative sentence should not be imposed.

Section 6. KRS 186.560 is amended to read as follows:

(1) The cabinet shall forthwith revoke the license of any operator of a motor vehicle upon receiving record of his conviction of any of the following offenses:

(a) Manslaughter resulting from the operation of a motor vehicle;

(b) Driving a vehicle which is not a motor vehicle while under the influence of alcohol or any other substance which may impair one's driving ability;

(c) Perjury or the making of a false affidavit under KRS 186.400 to 186.640 or any law requiring the registration of motor vehicles or regulating their operation on highways;

(d) Any felony in the commission of which a motor vehicle is used;

(e) Conviction or forfeiture of bail upon three (3) charges of reckless driving within the preceding twelve (12) months;

(f) Conviction of driving a motor vehicle involved in an accident and failing to stop and disclose his identity at the scene of the accident;

(g) Conviction of theft of a motor vehicle or any of its parts, including the conviction of any person under the age of eighteen (18) years;

(h) Failure to have in full force and effect the security required by subtitle 39 of KRS Chapter 304 upon conviction of a second and each subsequent offense within any five (5) year period; and

(i) Conviction for fraudulent use of a driver's license or use of a fraudulent driver's license to purchase or attempt to purchase alcoholic beverages, as defined in KRS 241.010, in violation of KRS 244.085.

(2) If the person convicted of any offense named in subsection (1) of this section is not the holder of a license, the cabinet shall deny the person so convicted a license for the same period of time as though he had possessed a license which had been revoked. If through an inadvertence the defendant should be issued a license, the cabinet shall forthwith cancel it.

(3) The cabinet upon receiving a record of the conviction of any person upon a charge of operating a motor vehicle while the license of that person is denied or suspended, or revoked, or while his privilege to operate a motor vehicle is withdrawn, shall immediately extend the period of the first denial, suspension, revocation or withdrawal for an additional like period.

(4) The revocation or denial of a license or the withdrawal of the privilege of operating a motor vehicle under this section shall be for a period of six (6) months, except that, if the same person has had one (1) previous conviction of any offense enumerated in subsection (1) of this section, regardless of whether the person's license was revoked because of the previous conviction, the period of the revocation, denial or withdrawal shall be one (1) year; if the person has had more than one (1) previous conviction of the offenses considered collectively as enumerated in subsection (1) of this section, regardless of whether the person's license was revoked for any previous conviction, the period of revocation, denial or withdrawal shall be for not less than two (2) years. Provided, however, the cabinet, upon receipt of the written recommendation of the court in which any person has been convicted of violating KRS 189.520(1) or KRS 244.085(5) as relates to instances in which a driver's license or fraudulent driver's license was the identification used or attempted to be used in the commission of the offense, who has had no previous conviction of said offense, that said person's operator's license shall not be revoked, restricts said person's operator's license according to such terms and conditions as the secretary in his discretion may require, provided said person has enrolled in such driver's education program as the cabinet shall require. In the event said person fails to satisfactorily complete said driver's education program or violates the restrictions on his operator's license, the cabinet shall forthwith revoke said operator's license for a period of six (6) months.

(5) Persons convicted of a first offense violation of KRS 189A.010 may elect to attend the driver's education program established by this section, or (at the option of the defendant) a licensed comprehensive care center education program, and no other. Attendance at the school shall not permit the retention of the operator's license. Successful completion of the school shall reduce the period of operator's license suspension from six (6) months to thirty (30) days as specified in KRS 189A.070(1)(a). The cabinet shall permit driver's education programs approved by the cabinet to offer a nine (9) hour driver's education program which may be completed in one (1) day and which shall satisfy the provisions of this section.

(6) License suspensions and revocations under KRS 189A.060, 189A.070, and 189A.080 shall be in addition to any other license revocation authorized by law or regulation. The powers of the transportation cabinet to revoke a license or lengthen the period of revocation shall not be affected by KRS Chapter 189A.

(7) In order to secure the reinstatement of a license to operate a motor vehicle or motorcycle restored following a period of suspension or revocation pursuant to KRS 189A.060, 189A.070, and 189A.080 the person whose license is suspended or revoked shall comply with the fees and other procedures of the transportation cabinet with regard to the reinstatement of suspended or revoked licenses.

(8)*(a)* Any person or legal entity that seeks to offer, conduct or operate *an alcohol driver* [a driver's] education program as provided in this section shall submit sufficient documentation to the cabinet in writing that such program is needed in the geographical area that is proposed to be served.

(b) Any person or legal entity which is certified by the transportation cabinet to operate an alcohol driver

education program on a statewide basis shall be eligible to operate a driver improvement program on a statewide basis pursuant to KRS 186.574.

(c) The cabinet shall promulgate administrative regulations which specify what constitutes need for such programs in a given geographical area. The cabinet shall determine whether such need is shown to exist and shall establish by regulation an appeals procedure. The provisions of this subsection shall not apply to any driver's education program operating with the approval of the cabinet prior to July 15, 1986.

Section 7. KRS 186.574 is amended to read as follows:

(1) The transportation cabinet shall *supervise and regulate* [establish] a driver improvement program for new drivers and for traffic offenders. The program shall be composed of uniform education and training elements designed to create a lasting and corrective influence on the driving performance of traffic offenders. District courts may in lieu of assessing penalties for traffic offenses, other than for KRS 189A.010, sentence offenders to said driver improvement program and no other.

(2) Whenever any district court stipulates in its judgment of conviction that a person attend a driver improvement program, the court shall so indicate in the space provided on the abstract of conviction filed with the transportation cabinet. Upon receipt of such abstract, the transportation cabinet, or its representative, shall forthwith schedule such person to attend a driver improvement program. Failure of such person to attend and satisfactorily complete a driver improvement program in compliance with the court order, may be punished as contempt of the sentencing court.

(3) The transportation cabinet shall supervise[, operate] and *regulate* [administer] said driver improvement program, and shall promulgate such regulations as are necessary relating to *certification,* facilities, equipment, courses of instruction, instructors and records of the program. *The cabinet may operate a driver improvement school in any county in addition to any certified school. However, the attendee shall be given the opportunity to choose which course he wants to attend.* In the event a person sentenced under subsection (1) of this section does not attend or satisfactorily complete the prescribed driver improvement program, the transportation cabinet may deny that person a license or suspend the license of that person until he reschedules attendance or completes the driver improvement clinic, at which time any such denial or suspension shall be rescinded.

(4) Persons participating in the driver improvement program as provided in this section shall, upon sentencing, pay a fee of fifteen dollars ($15.00) to defray the cost of operating the program *and five dollars ($5) to the transportation cabinet. The transportation cabinet shall collect the entire twenty dollars ($20) and pay the appropriate certified school its share.*

Section 8."

Floor Amendment No. 1 to **SB 14**, by Representative Gregory:

Amend printed copy of **SB 14** on page 2, after line 20, by inserting the following:

"Section 2. KRS 186.170 is amended to read as follows:

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the cabinet through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of the registration receipt of every motor vehicle, except motorcycles, licensed under KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. No rim, frame or other covering around the plate shall in any way obscure or cover any lettering or decal on the plate*; except that, any owner who objects to the display of a trademark of a private corporation which appears on the registration plate shall be entitled to receive a set of decals from the county clerk in his county of residence to cover the trademark of the private corporation. The owner may apply for the decal by presenting his certificate of registration either at the time of registration renewal or later. The county clerk shall charge a one dollar ($1) clerk's fee for issuing the decal set if it is applied for a time other than at registration renewal.* If the cabinet has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to

attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The cabinet shall have placed on said insignia either figures, letters, writing, marks or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the cabinet make identity of the registrant readily ascertainable.

(2) The registration year for ommercial vehicles, trailers, semitrailers, mobile homes, and recreational vehicles shall be from April 1 to March 31. The registration year for vehicles registered under the provisions of KRS 186.050(2) shall be January 1 to December 31."

Floor Amendment No. 2 to **SB 14**, by Representative Gregory:

Amend printed copy of **SB 14** on page 2, after line 20, by inserting the following:

"Section 2. KRS 186.010 is amended to read as follows

(1) "Cabinet" as used in KRS 186.400 to 186.640 means the transportation cabinet; except as specifically designated, "cabinet" as used in KRS 186.020 to 186.270 means the transportation cabinet only with respect to motor vehicles, other than commercial vehicles; "cabinet" as used in KRS 186.020 to 186.270 means the department of vehicle regulation when used with respect to commercial vehicles.

(2) "Highway" means every way or place of whatever nature when any part of it is open to the use of the public, as a matter of right, license or privilege, for the purpose of vehicular traffic.

(3) "Manufacturer" means any person engaged in manufacturing motor vehicles who will, under normal conditions during the year, manufacture or assemble at least ten (10) new motor vehicles.

(4) "Motor vehicle" means in KRS 186.020 to 186.260, all vehicles, as defined in paragraph (a) of subsection (8) of this section, which are propelled otherwise than by muscular power. As used in KRS 186.400 to 186.640, it means all vehicles, as defined in paragraph (b) of subsection (8) of this section, which are self-propelled. Motor vehicle shall not include a moped as defined in this section.

(5) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(6) "Operator" means any person in actual control of a motor vehicle upon a highway.

(7) "Owner" means a person who holds the legal title of a vehicle. If a vehicle is the subject of an agreement for the conditional sale or lease, with the vendee or lessee entitled to possession of the vehicle, upon performance of the contract terms, for a period of three hundred sixty-five (365) days or more and with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee, or if a mortgagor of a vehicle is entitled to possession, the conditional vendee or lessee or mortgagor shall be deemed the owner.

(8) (a) "Vehicle," as used in KRS 186.020 to 186.260, includes all agencies for the transportation of persons or property over or upon the public highways of this Commonwealth and all vehicles passing over or upon said highways, excepting road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails, and such vehicles as are propelled by electric power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the city limit of any municipality.

(b) As used in KRS 186.400 to 186.640, "vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, excepting devices moved by human and animal power or used exclusively upon stationary rails or tracks, or which derives its power from overhead wires.

(9) KRS 186.020 to 186.270 apply to motor vehicle licenses. KRS 186.400 to 186.640 apply to operator's licenses.

(10) "Dealer" means any person engaging in the business of buying or selling motor vehicles.

(11) "Commercial vehicles" means all motor vehicles that are required to be registered under the terms of KRS 186.050, but not including vehicles primarily designed for carrying passengers and having provisions for not more than nine (9) passengers (including driver), motorcycles, side car attachments, *pick-up trucks and passenger vans which are not being used for commercial or business purposes* and motor vehicles registered under KRS 186.060.

(12) "Resident" means any person who has taken up a place of abode within this state; or any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve (12) months next preceding the date on which his motor vehicle is registered or required to be registered in Kentucky; or any person maintaining a place of abode in this state for gainful employment; provided, however, that the transportation cabinet may promulgate regulations exempting any person temporarily maintaining a place of abode in Kentucky, including full-time student at Kentucky colleges and universities, from any requirement imposed by this chapter upon residents as defined in this chapter. The possession by an operator of a vehicle of a valid Kentucky operator's license shall be prima facie evidence that the operator is a resident of Kentucky.

Section 3. KRS 186.050 is amended to read as follows:

(1) The annual registration fee for motor vehicles, including taxicabs, airport limousines and U-Drive-Its, primarily designed for carrying passengers and having provisions for not more than nine (9) passengers, including the operator, *and pick-up trucks and passenger vans which are not being used for commercial or business purposes shall be eleven dollars and fifty cents ($11.50).*

(2) The annual registration fee for each motorcycle shall be five dollars ($5.00), and for each sidecar attachment, three dollars ($3.00).

(3) (a) All motor vehicles having a declared gross weight of vehicle and any towed unit of six thousand (6,000) pounds or less except those mentioned in subsections (1) and (2) of this section and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (4) to (14) hereof, shall be eleven dollars and fifty cents ($11.50).

(b) All motor vehicles except those mentioned in subsections (1) and (2) of this section, and those engaged in hauling passengers for hire, operating under certificates of convenience and necessity, are classified as commercial vehicles and the annual registration fee, except as provided in subsections (3)(a) and (4) to (14) hereof, shall be as follows:

Declared Gross Weight of Vehicle and Any Towed Unit	Registration Fee
6,001-10,000	$ 24.00
10,001-14,000	30.00
14,001-18,000	50.00
18,001-22,000	132.00
22,001-26,000	160.00
26,001-32,000	216.00
32,001-38,000	300.00
38,001-44,000	474.00
44,001-55,000	544.00
55,001-62,000	588.00
62,001-73,280	750.00
73,281-82,000	840.00

(4) (a) Any farmer owning a truck having a gross weight of thirty-eight thousand (38,000) pounds or less may have it registered as a farmer's truck and obtain a license for eleven dollars and fifty cents ($11.50). The applicant's signature upon the certificate of registration and ownership shall constitute a certificate that he is a farmer engaged solely in the production of crops, livestock or dairy products, that he owns a truck of the gross weight of thirty-eight thousand (38,000) pounds or less, and that during the next twelve (12) months the truck will be used only in transporting persons, food, provender, feed, machinery, livestock, material and supplies necessary for his farming operation, and the products grown on his farm.

(b) Any farmer owning a truck having a declared gross weight in excess of thirty-eight thousand (38,000) pounds shall not be required to pay the fee set out in subsection (3) of this section and, in lieu thereof, shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the registration receipt shall be considered to be a certification that he is a farmer engaged solely in the production of crops, livestock or dairy products, and that during the current registration year the truck will be used only in transporting persons, food, provender, feed and machinery used in operating his farm and the products grown on his farm.

(5) Any person owning a truck or bus used solely in transporting school children and school employes may have the truck or bus registered as a school bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus is used solely in the transportation of school children and persons employed in the schools of the district, that he has caused to be printed on each side of the truck or bus and on the rear door the words "School Bus" in letters at least six (6) inches high and of a conspicuous color and the truck or bus will be used during the next twelve (12) months only for the purpose stated.

(6) Any church or religious organization owning a truck or bus used solely in transporting persons to and from a place of worship or for other religious work may have the truck or bus registered as a church bus and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit stating that the truck or bus will be used only for the transporting of persons to and from a place of worship, or for other religious work, and that there has been printed on the truck or bus in large letters the words "Church Bus," with the name of the church or religious organization owning and using the truck or bus, and that during the next twelve (12) months the truck or bus will be used only for the purpose stated.

(7) Any person owning a motor vehicle on which a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted may register the vehicle and obtain a license for eleven dollars and fifty cents ($11.50) by filing with the county clerk, in addition to other information required, an affidavit that a wrecking crane and other equipment suitable for an automobile wrecker service has been permanently mounted on such vehicle and that during the next twelve (12) months the vehicle will be used only in automobile wrecker service.

(8) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which when operated in this state are used exclusively for the transportation of property within the limits of the city named in the affidavit hereinafter required to be filed, or within ten (10) miles of the city limits of the city if it is a city of the first, second, third, or fourth class, or within five (5) miles of its limits if it is a city of the fifth or sixth class, shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set forth in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. Nothing in this section shall be construed to limit any right of nonresidents to exemption from registration under any other provisions of the laws granting reciprocity to nonresidents. Operations outside of this state shall not be considered in determining whether or not the foregoing mileage limitations have been observed. When claiming the right to the reduced fee, the applicant's signature on the certificate of registration and ownership shall constitute a certification or affidavit stating that the motor vehicle when used within this state is used only for the transportation of property within the city to be named in the affidavit and the area above set out and that the vehicle will not be used outside of a city and the area above set out during the current registration period.

(9) Motor vehicles having a declared gross weight in excess of eighteen thousand (18,000) pounds, which are used exclusively for the transportation of primary forest products from the harvest area to a mill or other processing facility, where such mill or processing facility is located at a point not more than fifty (50) air miles from the harvest area or which are used exclusively for the transportation of concrete blocks or ready mixed concrete from the point at which such concrete blocks or ready mixed concrete is produced to a construction site where such concrete blocks or ready mixed concrete is to be used, where such construction site is located at a point not more than thirty (30) air miles from the point at which such concrete blocks or ready mixed concrete is produced shall not be required to pay the fee as set out in subsection (3) of this section, and in lieu thereof shall pay forty percent (40%) of the fee set out in subsection (3) hereof and shall be exempt from any fee charged under the provisions of KRS 281.752. The applicant's signature upon the

certificate of registration and ownership shall constitute a certification that the motor vehicle will not be used during the current registration period in any manner other than that for which the reduced fee is provided in this section.

(10) Motor vehicles used exclusively for the transportation and delivery of motor vehicles, not including trailers and semitrailers, by means of the full amount or truckaway methods on trailers or semitrailers, shall pay an amount equal to three-fourths (3/4) of the fee set out in subsection (3) hereof. Any applicant for such registration shall present to the county clerk a certification from the cabinet that the vehicle may be licensed in accordance herewith. No clerk shall issue registrations under this section without attaching a copy of the department's certification to the transportation cabinet's copy of the certificate of registration and ownership.

(11) Any owner of a commercial vehicle registered for a declared gross weight in excess of eighteen thousand (18,000) pounds, intending to transfer same and desiring to take advantage of the refund provisions of KRS 186.056(2) may reregister such vehicle and obtain a "For Sale" certificate of registration and ownership for one dollar ($1.00). Title to a vehicle so registered may be transferred, but such registration shall not authorize the operation or use of the vehicle on any public highway. No refund may be made under the provisions of KRS 186.056(2) until such time as the title to such vehicle has been transferred to the purchaser thereof. Provided, however, that nothing herein shall be so construed as to prevent the seller of a commercial vehicle from transferring the registration of such vehicle to any purchaser thereof.

(12) The annual registration fee for self-propelled vehicles containing sleeping or eating facilities shall be twenty dollars ($20.00) and the tag issued shall be designated "Housecar." Provided, however, that the foregoing shall not include any motor vehicle primarily designed for commercial or farm use having temporarily attached thereto any such sleeping or eating facilities, or any commercial vehicle having sleeping facilities.

(13) The registration fee on any vehicle registered under this section shall be increased fifty percent (50%) when such vehicle is not equipped wholly with pneumatic tires.

(14) (a) The department of vehicle regulation is authorized to negotiate and execute an agreement or agreements with other jurisdictions for the purpose of developing and instituting proportional registration of motor vehicles engaged in interstate commerce, or in a combination of interstate and intrastate commerce, and operating into, through or within the Commonwealth of Kentucky. The agreement or agreements may be made on a basis commensurate with, and determined by, the miles traveled on, and use made of, the highways of this Commonwealth as compared with the miles traveled on and use made of highways of other states, or upon any other equitable basis of proportional registration. Notwithstanding the provisions of KRS 186.020, the cabinet shall promulgate regulations concerning the registration of motor vehicles under any agreement or agreements made under this section and shall provide for direct issuance by it of evidence of payment of any registration fee required under such agreement or agreements. Any proportional registration fee required to be collected under any proportional registration agreement or agreements shall be in accordance with the taxes established in this section.

(b) Any owner of a commercial vehicle who is required to title his motor vehicle under this section shall first title such vehicle with the county clerk pursuant to KRS 186.020 for a state fee of one dollar ($1.00). Title to such vehicle may be transferred, however title, without proper registration, shall not authorize the operation or use of the vehicle on any public highway. Any commercial vehicle properly titled in Kentucky may also be registered in Kentucky, and, upon payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle.

(c) Any commercial vehicle that is properly titled in a foreign jurisdiction, which vehicle is subject to apportioned registration as provided in (a) of this subsection may be registered in Kentucky, and, upon proof of proper title, and payment of the required fees, the department may issue an apportioned registration plate to such commercial vehicle. The department shall promulgate regulations in accordance with this section.

Section 4. KRS 186.170 is amended to read as follows:

(1) Except as provided in this subsection and in KRS 186.045, the owner shall have the receipt issued by the cabinet through the county clerk constantly in his possession, and shall display the registration plate conspicuously upon the rear of the motor vehicle, except that the registration plate upon a semitrailer-tractor shall be displayed upon the front of the tractor. The owner's copy, or a reproduced copy thereof, of the registration receipt of every motor vehicle, except motorcycles, licensed under KRS 186.050 shall be kept in the vehicle at all times and shall be available for inspection. Plates shall be kept legible at all times and the rear plate shall be illuminated when being operated during the hours designated in KRS 189.030. No rim, frame or other covering around the plate shall in any way obscure or cover any lettering or decal on the plate*; except that, any owner who objects to the display of a trademark of a private corporation which appears on the registration plate shall be entitled to receive a set of decals from the county clerk in his county of residence to cover the*

trademark of the private corporation. The owner may apply for the decal by presenting his certificate of registration either at the time of registration renewal or later. The county clerk shall charge a one dollar ($1) clerk's fee for issuing the decal set if it is applied for a time other than at registration renewal. If the cabinet has prescribed that plates shall continue in use, it shall each year, in addition to the registration receipt, select and give to the owner as further evidence of registration some insignia which may conveniently be attached permanently and conspicuously to the motor vehicle during each registration year. It shall be the duty of the owner to attach same in the prescribed manner and no person may operate a motor vehicle unless such insignia is so affixed upon it. The cabinet shall have placed on said insignia either figures, letters, writing, marks or a combination thereof, which indicate that the motor vehicle has been registered and which in conjunction with the records of the cabinet make identity of the registrant readily ascertainable.

(2) The registration year for commercial vehicles, trailers, semitrailers, mobile homes, and recreational vehicles shall be from April 1 to March 31. The registration year for vehicles registered under the provisions of KRS 186.050(2) shall be January 1 to December 31."

Section 5. Sections 2 and 3 of this Act shall be effective on January 1, 1989."

Floor Amendment No. 2 to **SB 118**, by Representative Todd:

Amend printed copy of **SB 118** on page 10, after line 16, by inserting the following:

"Section 3. KRS 189.270 is amended to read as follows:

(1) The department may prescribe, by orders of general application, rules and regulations for the issuance by it of permits for the operation of motor vehicles, mobile homes, recreational vehicles and vehicles transporting microwave satellite television antennae, *vehicles transporting boats* or farm equipment, whose gross weight including load, height, width or length exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. Permits may be issued by the department for stated periods, special purposes and unusual conditions, and upon such terms in the interest of public safety and the preservation of the highways as the department may, in its discretion, require. The department shall require, as a condition to the issuance of the permit, that the applicant pay a fee of thirty dollars ($30.00) for each overweight or overdimension permit; a fee of twenty dollars ($20.00) for each single trip house trailer permit; a fee of eighty dollars ($80.00) for each annual house trailer, farm equipment, *boat transporter* or microwave antennae transporter permit; *a fee of five hundred dollars ($500) for each annual boat permit for units in excess of sixty-five (65) feet in length and twelve (12) feet in width;* and may require that the applicant give bond, with approved surety, to indemnify the state or counties against damage to highways or bridges resulting from use by the applicant. The operation of motor vehicles, mobile homes and recreational vehicles in accordance with the terms of any such permit shall not constitute a violation of this chapter if the operator has the permit, or a copy of it, authenticated as the department may require, in his possession.

(2) *Annual boat permits shall be issued for any unit, including towing vehicle and trailer combination which does not exceed ninety-five (95) feet in length or fourteen (14) feet in width exclusive of usual and ordinary overhang. The department may, by regulation, limit annual boat permits for units including towing vehicle and trailer combinations which exceed sixty-five (65) feet in length and twelve (12) feet in width to manufacturers and dealers, to specified routes or to exclude certain highways from the annual permit in this subsection if an unreasonable risk of accident or an unreasonable impedence of the flow of traffic would result from the presence of such units. Movement of boats in excess of sixty-five (65) feet in length and twelve (12) feet in width shall be preceded by notification to the department of vehicle regulation, division of motor carriers of any trip to be made under the permit. The department may, no later than eighteen (18) hours after the receipt of notice, prohibit said trip if, because of temporary or special conditions, an unreasonable risk of accident or unreasonable impedence of the flow of traffic would be created.*

(3) No person shall operate any motor vehicle, mobile home or recreational vehicle in violation of the terms of the permit."

Adjournment

Representative Stumbo moved that the House adjourn until 2:00. p.m., Monday, March 21, 1988.

The motion that the House adjourn until 2:00 p.m., Monday, March 21, 1988 was adopted by voice vote.